

## **Himachal Pradesh Tourism Development And Registration Act, 2002**

**15 OF 2002**

### CONTENTS

#### **CHAPTER 1 :- PRELIMINARY**

1. Short title, extent and commencement
2. Exemptions
3. Definitions

#### **CHAPTER 2 :- TOURISM DEVELOPMENT BOARD**

4. Establishment and constitution of the Board
5. Term of office
6. Disqualifications
7. Meetings of the Board
8. Powers and functions of the Board
9. Grants to the Board by the Government
10. Funds of the Board
11. Investment of funds
12. Borrowing power of the Board
13. Employees of Board
14. Accounts and Audit
15. Special audit of accounts
16. Annual report

#### **CHAPTER 3 :- TOURISM DEVELOPMENT COUNCIL**

17. Establishment and constitution of the Council
18. Term of office
19. Disqualifications
20. meetings of the Council
21. Powers and functions of the Council
22. Accounts and audit
23. Special audit of accounts
24. Annual report

#### **CHAPTER 4 :-REGISTRATION OF TOURISM UNITS, TRAVEL AGENTS, GUIDES AND ADVENTURE SPORTS OPERATORS**

25. Registration of the tourism unit
26. Registration of the travel agent or guide
27. Registration of the adventure sports operator

- 28. Certificate of registration of the tourism unit, travel agent, guide and adventure sports operator
- 29. Refusal to register the tourism unit, travel agent, guide and adventure sports operator
- 30. Removal of name of tourism unit, travel agent, guide and adventure sports operator from the register
- 31. Classification of tourism unit
- 32. Notifying the fair rates
- 33. Revision of fair rates
- 34. Notifying the fair rates until notified by the prescribed authority
- 35. Display of information
- 36. Charges recoverable in excess of fair rates
- 37. No ejectment to be made if fair rates paid
- 38. When tourism unit operator may recover possession
- 39. Tourism unit operator, travel agent, guide and adventure sports operator to present detailed bills
- 40. When the tourism unit operator may honour confirmation of bookings at a particular rate
- 41. Power of entry, inspection, seizer and supply of statistical data by tourism unit operator etc
- 42. Travel agent, guide and adventure sports operator not to demand tips etc
- 43. Insurance

## **CHAPTER 5 :- APPEAL AND REVISION**

- 44. Appeal
- 45. Revision

## **CHAPTER 6 :- OFFENCES AND PENALTIES**

- 46. Penalty for default in registration
- 47. Penalty for false statement
- 48. Certificate not to be assigned without permission
- 49. Certificate to be shown to persons on demand
- 50. Penalty for malpractice
- 51. Obstructing lawful authorities
- 52. Power of court to try cases summarily
- 53. Institution of proceedings
- 54. Powers of Prescribed authority to summon and enforce attendance of witness and other persons
- 55. Composition of offences

## **CHAPTER 7 :- MISCELLANEOUS**

- 56. Notification of changes
- 57. Return of the certificate of registration
- 58. Duplicate certificate
- 59. Renewal of certificate
- 60. Certificate of registration to be kept exhibited
- 61. Proceedings before the prescribed authority to be judicial

proceedings

62. Indemnity

63. Power of Government to apply Act to other persons

64. Power to make rules

65. Repeal and savings

## **Himachal Pradesh Tourism Development And Registration Act, 2002**

### **15 OF 2002**

(Received the assent of Governor on the 24th June, 2002 and was published in Hindi and English in R.H.P. Extra. dated 28th June at pages 773- 823).

AN ACT to re-enact a law relating to registration of persons engaged in tourist trade, constitution of the Tourism Development Board and other matters connected therewith.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Fifty-third Year of the Republic of India, as follows :-

1 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 25.3.2002, P. 4577 &4603..

### **CHAPTER 1 PRELIMINARY**

#### **1. Short title, extent and commencement :-**

(1) This Act may be called the Himachal Pradesh Tourism Development and Registration Act, 2002.

(2) It extends to the whole of the State of Himachal Pradesh .

(3) It shall come into force on such date<sup>2</sup> as the State Government may, by notification in the Official Gazette, appoint.

2.. Act came into force w.e.f. 15th day of July, 2002 vide Not. No. 5-3/86-Tourism, dated 12th July, 2002 published in R.H.P. Extra., dated 12.7.2002, p. 960.

#### **2. Exemptions :-**

(1) The Government may direct that all or any of the provisions of

this Act shall not, subject to such terms and conditions as it may specify, apply generally,-

(i) to a premises used for a public purpose of a charitable nature or to any class of premises used for such purpose;

(ii) to a premises held by a public trust for a religious or charitable purpose and let out at a nominal rent;

(iii) to a premises held by a public trust for a religious or charitable purpose and administered by a local authority; and

(iv) to a rest house, dak bungalow, circuit house, inspection hut, sera or any institution or premises managed or run by the Government or a local authority.

(2) The Government may also by order, direct that all or any of the provisions of Chapter-IV shall not apply to such hotels or institutions, or such class of hotels or institutions, subject to such terms and conditions, if any, as may be specified in the order.

### **3. Definitions :-**

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

(a) "adventure sports" means an outdoor activity undertaken for sports or recreation on land or in water or in the air, as the case may be, which shall include water sports, aero-sports, trekking, rafting, skiing, heli-skiing, bunji-jumping and ballooning with an inherent risk to the life or limb of the participant or any other sports as may notified by the Government from time to time;

(b) "adventure sports operator" means any person or organization or enterprise, as the case may be, engaged in or offering to engage for adventure sports on commercial basis i.e. for the purpose of training, recreation or sports;

(c) "Board" means Tourism Development Board established under section 4 of this Act;

(d) "Certificate of registration" means a certificate issued under this Act;

(e) "Council" means Tourism Development Council established under section 17 of this Act;

(f) "Government" means the Government of Himachal Pradesh;

(g) "guide" means a person who engages himself as a paid guide for the tourists;

(h) "local authority" means the Municipal Corporation or Municipal Council or Cantonment Board or Nagar Panchayat or Gram Panchayat or Special Area Development Authority;

(i) "malpractice" includes cheating, touting, impersonation, obstruction in allowing free choice for stay or travel arrangement, charging rent or remuneration higher than that fixed under this Act, failure to display the rent list, failure to give cash memos, wilful failure to execute an order within the stipulated period and according to the terms agreed upon, failure to provide accommodation to the tourists when available, failure to provide promised facilities and providing substandard equipment and untrained personnel by the adventure sports operator;

Explanation.- The expression "touting" means coercing for accommodation, transportation, sight seeing or pestering for any particular premises, establishment or any other services connected with tourism with the consideration of personal benefit;

(j) "Official Gazette" means the Rajpatra, Himachal Pradesh;

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

(l) "prescribed authority" means the authority notified as such by the Government; provided that different authorities may be notified for different areas and for different provisions of this Act;

(m) "season" means the period from 15th April to 15th July and from 15th September to 15th January; and rest of the period shall constitute "off-season";

(n) "tourism unit" means any establishment providing facilities and services to the tourists and includes hotel, resorts, motels, time share units, apartments, houseboats, motor caravans, guest houses, yatri niwases, restaurants and bars, amusement parks, theme parks, water sports centres, aero-sports centres, golf courses, handicraft village complexes, camps, river cruises, lake cruise projects, light and sound shows, adventure sports complexes, training institutes for adventure sports or tourism industry doing business for a monetary consideration and any other type of establishment as may be notified by the Government from time to time;

(o) "tourism unit operator" means any person who owns, runs or operates a tourism unit and includes a person managing or operating the affairs on behalf of the proprietor;

(p) "tourist" means a person or group of persons, including pilgrims visiting the State of Himachal Pradesh; and

(q) "travel agent" means a person engaged in the business of making travel arrangements for tourists for monetary consideration.

Explanation.- the expression "travel arrangements" includes,-

(a) arrangement for transportation by any mode ;

(b) arrangement for lodging with or without board; and

(c) rendering other services such as arranging for games and sports or receipt or despatch of personal belongings of a tourist or taking photograph(s) of a tourist, hiring of guides, photographers, arranging equipment for travel or adventure sports.

## **CHAPTER 2 TOURISM DEVELOPMENT BOARD**

### **4. Establishment and constitution of the Board :-**

(1) The Government may, by notification in the Official Gazette, establish a Board to be known as the "Tourism Development Board" for carrying out the purposes of this Act.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and may, by the said name sue and be sued.

(3) The Board shall consist of the following members:-

(i) OFFICIAL MEMBERS :

(a) Chief Minister of Himachal Pradesh - Chairman.

(b) Tourism Minister of Himachal Pradesh - Vice-Chairman

(c) Chief Secretary to the Government of Himachal Pradesh - Member

(d) Secretary (Tourism) to the Government of Himachal Pradesh. -

Member

(e) Secretary (Finance) to the Government of Himachal Pradesh. - Member

(f) Secretary (Forest) to the Government of Himachal Pradesh. - Member

(g) Secretary (PWD) to the Government of Himachal Pradesh. - Member

(h) Secretary (Urban Development) to the Government of Himachal Pradesh. - Member

(i) Secretary (Town and Country Planning) to the Government of Himachal Pradesh. - Member

(j) Secretary (Youth Services and Sports) to the Government of Himachal Pradesh. - Member

(k) Secretary (Health/Ayurveda) to the Government of Himachal Pradesh. - Member

(l) Secretary (Horticulture) to the Government of Himachal Pradesh. - Member

(m) Secretary (Excise) to the Government of Himachal Pradesh. - Member

(n) Secretary (Industries) to the Government of Himachal Pradesh. - Member

(o) Secretary (Planning) to the Government of Himachal Pradesh. -



Member

(p) Secretary (Law) to the Government of Himachal Pradesh. - Member

(q) Secretary (Language, Arts and Culture) to the Government of Himachal Pradesh - Member

(ii) NON-OFFICIAL MEMBERS :

(a) Representatives of Hotel Associations Four - Members

(b) Representatives of Travel Agents Two Associations. - Members

(c) Representatives of Adventure Sports Two Operators Associations. - Members

(d) Representatives of other interested Two groups of tourism industry. - Members

(e) Three non-official members, to be nominated by the Government, by notification, from amongst the persons, having outstanding contribution or expertise in the field of development and promotion of tourism industry and having experience of working in the tourism trade for atleast 10 years.

(f) Representatives of the registered Non-Government Organizations. - Two Members

(iii) Director (Tourism), Himachal Pradesh. - Ex-Officio Member-Secretary.

(4) The non-official members shall be paid such allowances, as may

be prescribed.

## **5. Term of office :-**

(1) The term of office of the non-official members shall be two years and they shall be eligible for re-appointment.

(2) If the Government considers that the continuance in office of any non-official members is not in the interest of the Board, the Government may make an order terminating his term and thereupon, he shall cease to be a member of the Board notwithstanding the fact that the term to which he was nominated has not expired.

(3) Any non-official member of the Board may resign from his office by a letter addressed to the Chairman and the resignation shall take effect from the date of acceptance of his resignation by the Chairman.

## **6. Disqualifications :-**

A person shall be disqualified for being a non-official member, if he-

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude; or

(b) is an un-discharged insolvent ; or

(c) is of unsound mind ; or

(d) has been dismissed or removed from the service of the Government or a Corporation owned or controlled by the Government ; or

(e) has directly or indirectly, by himself or by any partner, employer or employee, any share or interest in any contract or employment with, by or on behalf of the Board.

## **7. Meetings of the Board :-**

(1) The Board shall meet and shall from time to time make such arrangements with respect to the day, time, notice, management and adjournment of its meetings as it thinks fit, subject to the conditions that-

(a) an ordinary meeting shall be held twice in a year;

(b) the Chairman may, whenever he thinks fit, call a special meeting;

(c) every meeting shall be presided over by the Chairman and in his absence by the Vice-Chairman and in the absence of both by any other member chosen by the members present ;

(d) the Member-Secretary of the Board shall make available the notice alongwith the agenda of the meeting to all the members of the Board atleast twenty four hours before the meeting takes place; and

(e) the presence of 50% members of the total number of the members of the Board shall form the quorum of a meeting.

(2) The decisions of the Board shall be attested and maintained by the Member-Secretary of the Board.

## **8. Powers and functions of the Board :-**

(1) The Board may,-

(a) advise the Government to lay down policy guidelines for the development and promotion of tourism industry in the State ;

(b) publicise Himachal as an attractive tourist destination within and outside the country and establish image of Himachal Pradesh as a safe reliable tourist destination;

(c) undertake improvement in the tourist areas to the extent possible within the resources of the Board;

(d) undertake income generating projects for the benefit of tourism industry/tourists in general;

(e) provide assistance to the Department of Tourism, Tourism Development Councils, Tourism Development Corporation, other departments of the Government, Semi Government Organizations, Non-Government Organizations to promote tourism industry and to enter into joint ventures with such departments and agencies;

(f) undertake human resource development effort for the development of sustainable tourism industry in the State ;

(g) work in collaboration with counterpart bodies in other States for the overall development of tourism industry and to undertake joint projects with other Government and Semi- Government Organisations elsewhere in the country ;

(h) create employment opportunities and to earn foreign exchange through development, expansion and promotion of tourism and civil aviation;

(i) carry out action research or get it done as per necessity to find out ways to eliminate problems encountered in tourism sector so as

to provide quality services to the tourists ;

(j) take steps to motivate the private sector to encourage the tourists to visit the places of religious and cultural importance, high mountains and the areas of alluring natural beauty of the State by making use of the existing physical infrastructure related with tourism in an organised and effective manner;

(k) take steps to organize constructive and tourism promotional activities including international seminars and conferences, trade fairs, cultural youth festivals and sports competitions and to encourage private sector to organize and participate in such activities ;

(l) give priority to rural tourist destinations while developing new tourist destinations and consolidating tourism infrastructure and facilities and to motivate local rural community to undertake various activities for rural tourism development ;

(m) mobilize or get mobilized investment for infrastructure building and development of new tourist destinations ;

(n) protect and promote religious places of tourist interest, to extend facilities and services in such places of religious and cultural importance for attracting more tourists and for developing religious tourism;

(o) develop and promote wildlife and eco-tourism;

(p) implement or get implemented publicity programmes on various levels for raising tourism consciousness ;

(q) make special arrangements for the security of the tourists by standardizing services and facilities provided to the tourists by tourism entrepreneurs ;

(r) provide and make provisions for necessary services and consultation in subjects related to tourism ;

(s) negotiate with foreign or international organizations with the approval of Government for the fulfilment of the Boards objectives;

(t) approve necessary budget for conducting Boards annual programmes;

(u) perform other necessary activities related with the development, extension and promotion of tourism;

(v) issue guidelines to the Tourism Development Councils ;

(w) to assist in the formation and functioning of society related to adventure tourism ; and

(x) perform such other functions as may be entrusted to it by the Government from time to time.

(2) The Board may, with the approval of the Government, charge fee or rent,-

(a) for the registration and renewal of registration of tourism units, travel agents, guides, adventure sports operators or other persons requiring registration and licence under this Act ; and

(b) for promotion of destination or location by way of common publicity.

(3) The Board may, on its own, charge fee of rent,-

(a) for the parking of vehicles provided by the Board to the tourists ; and

(b) for the facilities provided by the Board to the tourists in tourism units.

(4) The Board may, receive donations and grants from any Government, Semi-Government or Non-Government Organizations.

### **9. Grants to the Board by the Government :-**

The Government may, after due appropriation made by Legislature by law, in this behalf pay to the Board, on such terms and conditions as the Government may determine by way of loans or grants such sums of money as the Government may consider necessary for the efficient discharge by the Board of its functions under this Act.

### **10. Funds of the Board :-**

(1) The Board shall have its own funds and all receipts of the Board shall be credited thereto and all payments of the Board shall be made therefrom.

(2) The Board shall have power, subject to the provisions of this Act, to spend such sums as it thinks fit to cover all administrative expenses of the Board and on objects or for purposes authorised by this Act and such sums shall be treated as expenditure out of the funds of the Board.

(3) All moneys standing at the credit of the Board which can not immediately be applied as provided in sub-section (2) shall be deposited in the State Bank of India or in such Scheduled Bank or Co-operative Bank in the State or Post Office and subject to such conditions as may from time to time be specified by the Government.

Explanation.- In this sub-section, the expression "Scheduled Bank" has the same meaning as assigned to it in clause (e) of section 2 of the Reserve Bank of India Act, 1934 ( 2 of 1934) .

### **11. Investment of funds :-**

The Board may invest its funds in the securities of the Government or in such other manner as may be prescribed.

### **12. Borrowing power of the Board :-**

(1) The Board may, with the approval of the Government or in accordance with the terms of any general or special authority given to it by the Government, borrow money from any source by issuing the bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

(2) The Government may guarantee, in such guarantee, in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Board under sub-section (1).

(3) Subject to such limits as the Government may, from time to time, lay down, the Board may borrow temporarily by way of overdraft or otherwise such amount as it may require for discharging its functions under this Act.

### **13. Employees of Board :-**

(1) The Government may depute to the service of the Board such of its employees from the Tourism Department or from any other Department as it consider necessary.

(2) The service conditions of deputed employees shall be such as may be prescribed by the Government from time to time.



(3) The Board may employ any person on contract basis as it may consider necessary on such terms and conditions as may be determined by it.

#### **14. Accounts and Audit :-**

(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance-sheet in such form as may be prescribed by the Government.

(2) The Accounts of the Board shall be audited annually by the Local Audit Department, Himachal Pradesh and any expenditure incurred by it in connection with such audit shall be payable by the Board to the Local Audit Department, Himachal Pradesh.

(3) The Local Audit Department, Himachal Pradesh shall have the same rights and privileges and authority in connection with such audit as Accountant General of Himachal Pradesh has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers of the Board.

(4) The accounts of the Board as certified by the Local Audit Department, Himachal Pradesh together with the audit report thereon shall be forwarded annually to the Government and the Government shall cause the same to be laid before the Legislative Assembly.

#### **15. Special audit of accounts :-**

(1) Notwithstanding anything contained in section 14, the Government may order a special audit of the accounts of the Board to be conducted by such person or agency as it may think fit, relating to any particular transaction or a class or series of transactions for a particular period.

(2) Where an order is made under sub-section (1), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person or agency appointed under sub-section (1), such information as the said person or agency may require for the purpose of audit.

#### **16. Annual report :-**

The Member-Secretary of the Board shall prepare the annual report of the activities of the Board within three months from the date of the expiry of the financial year and a copy thereof shall be forwarded to the Government.

### **CHAPTER 3 TOURISM DEVELOPMENT COUNCIL**

#### **17. Establishment and constitution of the Council :-**

(1) The Government may, by notification in the Official Gazette, establish a Council to be known as the "Tourism Development Council" for carrying out the purposes of this Act for a specific tourist place, as may be notified by the State Government.

(2) The Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and may, by the said name sue and be sued.

(3) The Council shall consist of the following members namely :-

(i) Official Members:

(a) Deputy Commissioner Chairman.

(b) Additional Deputy Commissioner and Vice-Chairman in his absence, the . concerned Sub- Divisional Officer (Civil).

(c) Divisional Forest Officer Member.

(d) Executive Engineer (P.W.D.) Member.

(e) Executive Engineer (I.P.H.) Member.

(f) Executive Officer or Secretary of the Member(s) Municipal Council or Nagar Panchayat or Gram Panchayat, as the case may be.

(g) Town Planner. Member.

(ii) Non-Official Member :

(a) Representatives of Hotel Associations Two Members.

(b) Representative of Travel Agent One Member Associations,

(c) Representatives from other interested Two Members. groups of tourism industry.

(d) Four non-official members, to be nominated by the Government, by notification, from amongst the persons, who have outstanding contribution or expertise in the field of development and promotion of tourism industry and having experience of working in the tourism and travel trade for atleast 10 years.

(iii) District Tourism Development Officer or Ex-Officio Assistant Tourism Development Officer to Member be nominated by the Government. -Secretary

(4) The non-official members shall be paid such allowances as may be notified by the Government from time to time.

## **18. Term of office :-**

(1) The non-official members shall hold office of the Council for a period of two years from the date of their appointment and they shall be eligible for re-appointment.

(2) If the Government considers that the continuance in office of any non-official member is not in the interest of the Council, the Government may make an order terminating his term and thereupon, he shall cease to be a member of the Council notwithstanding the fact that the term to which he was nominated has not expired.

(3) Any non-official member of the Council may resign his office by a letter addressed to the Chairman and the resignation shall take effect from the date of acceptance of his resignation by the Chairman.

## **19. Disqualifications :-**

A person shall be disqualified for being a member if he-

(a) has been convicted and sentenced to imprisonment for an offence, which in the opinion of the Government involves moral turpitude; or

(b) is an un-discharged insolvent ; or

(c) is of unsound mind; or

(d) has been dismissed or removed from the service of the Government or a Corporation owned or controlled by the Government ; or

(e) has directly or indirectly by himself or by any partner, employer

or employee, any share or interest in any contract or employment with, by or on behalf of the Council.

## **20. meetings of the Council :-**

(1) An ordinary meeting of the Council shall be held once in a quarter, on the date, time and place fixed by the Chairman.

(2) The Chairman may, whenever he thinks fit, call a special meeting.

(3) Every meeting of the Council shall be presided over by the Chairman and in his absence by the Vice-Chairman and in the absence of both, by any other member chosen by the members present.

(4) The Member-Secretary of the Council shall make available the notice alongwith the agenda of the meeting to all the members of the Council atleast twenty four hours before the meeting.

(5) The presence of 50% members of the total number of the members of the Council shall form the quorum of a meeting.

(6) The proceedings of the meeting of the Council shall be attested by the Chairman and maintained by the Member-Secretary of the Council.

(7) The Council may form sub-committees as may be considered necessary to perform its functions and activities.

(8) The duties, functions and the terms of office of the sub-committees formed under sub-section (7) shall be determined by the Council.

## **21. Powers and functions of the Council :-**

## **21. Powers and functions of the Council :-**

(1) The Council shall systematically execute and get executed necessary programmes and manage all the activities of the Board for achieving the objectives of this Act.

(2) The Council may,-

(a) provide and maintain the tourism related services such as information, reservations, guidance, parking, toilets, cleanliness of tourist spots, environmental up gradation, publicity etc;

(b) assist the local body in maintaining the sanitation and infrastructural facilities at the tourist sports;

(c) build and maintain parks, lakes and recreation centres, fountains or any other such facility, which may enhance the tourism value of the area;

(d) take up developmental measures for various sections of tourism industry and those engaged in allied activities;

(e) regulate the construction, expansion, maintenance and operation of all tourism units and allied activities, subject to the general superintendence and control of the Board, in such a manner so that the tourism activities become environmentally and culturally sustainable;

(f) prepare a tourism master plan for its area and all tourism units and establishments performing tourism related activities shall conform to the said master plan and the Council may order to modify or close down the tourism units or establishments not conforming to the master plan; and

(g) perform such other duties and functions as may be entrusted to

it from time to time by the Board or the Government.

(3) The Council may,-

(i) charge fee on any of the direct services provided by it; and

(ii) receive donations or grants from the Board, the Central Government, the State Government, semi-Government and Non-Government Organizations and any other source.

## **22. Accounts and audit :-**

(1) The Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance-sheet in such form as may be prescribed by the Government.

(2) The accounts of the Council shall be audited annually by the Local Audit Department, Himachal Pradesh and any expenditure incurred by it in connection with such audit shall be payable by the Council to the Local Audit Department, Himachal Pradesh and the Council shall forward the same to the Board.

(3) The Local Audit Department, Himachal Pradesh shall have the same rights, privileges and authority in connection with such audit as Accountant General of Himachal Pradesh has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts connected vouchers, documents and papers of the Council.

(4) The accounts of the Council as certified by the Local Audit Department, Himachal Pradesh together with audit report thereon shall be forwarded annually by the Council to the Board.

## **23. Special audit of accounts :-**

(1) Notwithstanding anything contained in section 22, the Government may order a special audit of the accounts of the Council to be conducted by such person or agency as it may think fit relating to any particular transaction or a class or series of transactions for a particular period.

(2) Where an order is made under sub-section (1), the Council shall present or cause to be presented for audit such accounts and shall furnish to the person or agency appointed under sub-section (1), such information as the said person or agency may require for the purpose of audit.

#### **24. Annual report :-**

The Member-Secretary of the Council shall prepare the annual report of the activities of the Council within three months from the date of the expiry of the financial year and a copy thereof shall be forwarded to the Board as well as to the Government.

### **CHAPTER 4 REGISTRATION OF TOURISM UNITS, TRAVEL AGENTS, GUIDES AND ADVENTURE SPORTS OPERATORS**

#### **25. Registration of the tourism unit :-**

(1) Every person intending to operate a tourism unit shall, before operating the tourism unit, apply for registration to the prescribed authority in the prescribed manner : Provided that any person already operating a tourism unit on the date of commencement of this Act, shall apply for registration within ninety days from the date of commencement of this Act : Provided further that any person, operating a tourism unit, makes any addition or alteration in the tourism unit, shall apply for fresh registration within ninety days from the date of such addition or alteration.

(2) Every application made under sub-section (1) shall be disposed of within a period of sixty days from the date of receipt of application, failing which the application shall be deemed to have been accepted for registration.



(3) No person shall operate a tourism unit unless it is registered in accordance with the provisions of this Act.

## **26. Registration of the travel agent or guide :-**

(1) No person shall carry on the business of a travel agent or a guide unless he is registered in accordance with the provisions of this Act: Provided that no person shall be eligible to be registered as a guide, unless he possesses such qualifications as may be prescribed: Provided further that notwithstanding any prescribed qualification, the persons who are working as guides, on the date of commencement of this Act, shall ipso-facto be registered as guides.

(2) Every person intending to act as a travel agent or a guide shall, before he commences to act as such, apply for registration to the prescribed authority in the prescribed manner : Provided that any person acting as travel agent or a guide on the date of commencement of this Act, shall apply for registration within ninety days from the date of commencement of this Act.

(3) Every application made under this section shall be disposed of within a period of sixty days from the date of receipt of application, failing which the application shall be deemed to have been accepted for registration.

## **27. Registration of the adventure sports operator :-**

(1) No person shall carry on the business of adventure sports unless he is registered in accordance with the provisions of this Act.

(2) Every person intending to operate an adventure sports institute or to act as an adventure sports operator shall, before he commences to act as such, apply for registration to the prescribed authority in the prescribed manner.

(3) Notwithstanding anything contained in sub-section (2), any person already acting as an adventure sports operator shall apply for registration within ninety days from the date of commencement of this Act.

(4) Every application made under this section shall be disposed of within a period of sixty days from the date of receipt of application, failing which the application shall be deemed to have been accepted for registration.

**28. Certificate of registration of the tourism unit, travel agent, guide and adventure sports operator :-**

The prescribed authority shall, unless registration is refused under sections 25 or 26 or 27, direct the name and particulars of the tourism unit or travel agent or guide or adventure sports operator, as the case may be, cause to be entered in the register maintained for the purpose and shall issue a certificate of registration to the tourism unit or the travel agent or the guide or the adventure sports operator, as the case may be, in the prescribed form.

**29. Refusal to register the tourism unit, travel agent, guide and adventure sports operator :-**

The prescribed authority may refuse registration of the tourism unit or travel agent or guide or adventure sports operator, as the case may be, under this Act on any of the following grounds :-

(a) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, is convicted of any offence under Chapters-XIV and XVI of the Indian Penal Code, 1860 (45 of 1860) or under any of the provisions of this Act or any offence punishable under any law providing for prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption and two years have not elapsed since the termination of the sentence imposed upon him;

(b) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, has been declared an insolvent by a court of competent jurisdiction and has

not been discharged ;

(c) if the name of tourism unit operator or a travel agent or a guide or an adventure sports operator, as the case may be, has been removed from the register on the grounds mentioned in clauses (c), (d), (e) or (g) of section 30 and three months have not elapsed since the date of such removal;

(d) if the premises of the tourism unit do not conform to the prescribed standard;

(e) if the travel agent or a guide or an adventure sports operator does not possess any of the prescribed qualifications;

(f) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, does not hold a certificate of registration required to be held by him under this Act;

(g) if the tourism unit operator fails to produce the proof that the structure of the tourism unit has been built in accordance with the building bye-laws made under the provisions of the Himachal Pradesh Town and Country Planning Act, 1977 (12 of 1977) or under any other local laws in force ; and

(h) if in the opinion of the prescribed authority, there is any sufficient ground to be recorded in writing, for refusing registration :

Provided that no application for registration shall be refused unless the person applying for registration has been allowed an opportunity of being heard.

**30. Removal of name of tourism unit, travel agent, guide and adventure sports operator from the register :-**

The prescribed authority may, by order, in writing, remove the name of tourism unit or travel agent or guide or adventure sports operator, as the case may be, from the register and cancel the certificate of registration issued under section 28, on any of the following grounds, namely :-

(a) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, ceases to operate the tourism unit or ceases to act as a travel agent or a guide or an adventure sports operator for which he is registered;

(b) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, is convicted of any offence under Chapters XIV and XVI of the Indian Penal Code, 1860 or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption and two years have not elapsed since the termination of the sentence imposed upon him;

(c) if the tourism unit operator or the travel agent or the guide or an adventure sports operator, as the case may be, is declared insolvent by a court of competent jurisdiction and has not been discharged ;

(d) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, fails to comply with any of the provisions of this Act or rules framed thereunder;

(e) if the tourism unit operator fails to remove a lodger or wilfully keeps the lodger in a tourism unit, who becomes a nuisance for the inmates in his tourism unit as well as adjoining building(s);

(f) if any complaint of malpractice is received and proved against the tourism unit operator or the travel agent or the guide or adventure sports operator, as the case may be;

(g) if the tourism unit operator makes structural changes in the tourism unit without the approval of the Development Authority constituted under the Himachal Pradesh Town and Country Planning Act, 1977(12 of 1977); or any other local authority constituted under the local laws

(h) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, has obtained the certificate of registration by misrepresentation or fraud ;

(i) if the adventure sports operator does not maintain equipments, manpower and other facilities according to prescribed standards for safety ; and

(j) if the adventure sports operator does not take the precautions regarding safety measures, as may be prescribed :

Provided that before removing the name of any tourism unit or the travel agent or the guide or the adventure sports operator, as the case may be, from the register under this section, the prescribed authority shall give a notice to the tourism unit or the travel agent or the guide or the adventure sports operator, as the case may be, indicating the grounds on which it is proposed to take action after giving him an opportunity of being heard.

### **31. Classification of tourism unit :-**

The prescribed authority may in consultation with the committee to be constituted in the prescribed manner,-

(a) classify the tourism units into various classes, as may be prescribed; and

(b) fix the number of lodgers to be accommodated in each room in case of accommodation.

### **32. Notifying the fair rates :-**

(1) The prescribed authority shall, notify the fair rates or service charges, if any, commensurate to the standard/class of the tourism units and quality of food, accommodation and service, as specified by the tourism unit, which may be charged during "season" and "off-season" periods for boarding or lodging or for both from the tourists :

Provided that in case of dispute with regard to the rates to be charged, the decision of the committee constituted under section 31, shall be final: Provided further that the rates for lodging shall be notified with reference to each room or specified accommodation and the number of the lodgers to be accommodated.

(2) The prescribed authority shall notify the fair rates, as may be specified by the travel agent or by the guide, which may be charged for the services rendered to a person engaging him as such.

(3) The prescribed authority shall, notify the fair rates, as may be specified by the adventure sports operator commensurate to the standard of the adventures sports and other facilities, which may be charged by him from the tourists or from the customers.

### **33. Revision of fair rates :-**

The prescribed authority shall, from time to time, revise the fair rates notified under section 32.

### **34. Notifying the fair rates until notified by the prescribed authority :-**

Till such time, the prescribed authority does not notify the fair rates and the number of lodgers to be accommodated in each room, as required under sections 31 and 32, the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, shall notify the fair rates and intimate the same to the prescribed authority by 31st day of July each year and separate

rates may be fixed for "season" and "off-season" periods and such rates shall be effective from 1st October of that year till 30th September of the following year.

**35. Display of information :-**

Where under sections 32 and 33 the prescribed authority has notified or revised the fair rates, the number of lodgers to be accommodated in each room, or even in case where the prescribed authority has not notified the fair rates, the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, shall display a notice of the fair rates, the number of lodgers to be accommodated in each room at a conspicuous place in a tourism unit, business premises of the travel agent, the guide or the adventure sports operator and an agent of the tourism unit operator shall also keep a copy certified by the prescribed authority, of such information on his person.

**36. Charges recoverable in excess of fair rates :-**

(1) Notwithstanding any agreement to the contrary, no tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, shall charge any amount in excess of the fair rates notified.

(2) Any sum paid by the lodger or by a customer in excess of the fair rates fixed shall be refundable to the lodger or to a customer by the tourism unit operator or the travel agent or the guide or the adventure sports operator , as the case may be, through the prescribed authority.

**37. No ejectment to be made if fair rates paid :-**

No tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, shall evict or refuse any service to a lodger or to a customer so long he pays or is ready and willing to pay the fair rates notified and observes and implements the other conditions of his agreement in so far as they are consistent with the provisions of this Act.

**38. When tourism unit operator may recover possession :-**

Notwithstanding anything contained in this Act a tourism unit operator shall be entitled to recover possession of the accommodation provided by him on obtaining an order from the prescribed authority to the effect that :-

(a) the lodger has been guilty of a conduct which constitutes a nuisance or annoyance to any other lodger ; or

(b) the lodger has failed to pay the accommodation charges ; or

(c) the lodger has failed to vacate the accommodation on termination of the period of the agreement in respect thereof :  
Provided that before issuing an order under this section, the prescribed authority may conduct a summary enquiry and shall pass an appropriate order in a summary manner:

Provided further that any party aggrieved by an order of the prescribed authority may prefer an appeal before the District Magistrate of the concerned district who shall dispose it of in a summary manner.

(2) If the lodger against whom the order has been passed under sub-section (1) does not comply with the said order, the prescribed authority may take assistance from the police for the implementation of the order and every police officer shall render the assistance for the implementation of the said order.

**39. Tourism unit operator, travel agent, guide and adventure sports operator to present detailed bills :-**

Every tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, shall present detailed bills to the lodgers and other customers and shall give receipt in acknowledgement of all payments.

**40. When the tourism unit operator may honour confirmation of bookings at a particular rate :-**



If a tourism unit operator confirms a bookings, at a particular rate, he shall, even if accommodation at higher rates alone is available at the time of arrival of the person for whom accommodation stands booked, be honoured at the booked rate.

**41. Power of entry, inspection, seizer and supply of statistical data by tourism unit operator etc :-**

(1) The prescribed authority or any officer authorised by the Government may, in order to ensure that any of the provisions of this Act is not being implemented by the tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, enter the tourism unit or business premises of the travel agent or guide or adventure sports operator and inspect all accounts, registers, documents and other books with or without prior notice.

(2) If the prescribed authority or any officer authorized by the Government has reasons to suspect that any tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, is attempting to evade or has evaded any of the provisions of this Act, such authority or office may, for reasons to be recorded, seize such accounts, registers, documents or other books of such operator or travel agent or guide or adventure sports operator, as the case may be, as may be necessary, and shall grant a receipt of the same and retain the same so long as may be necessary for examination thereof or for the purpose of any proceedings under this Act.

(3) Every tourism unit operator or travel agent or guide or adventure sports operator shall supply statistical data regarding inflow of tourists and the employees employed by the unit concerned by the tenth of each following month to the prescribed authority.

**42. Travel agent, guide and adventure sports operator not to demand tips etc :-**

The travel agent or guide or adventure sports operator, as the case may be, shall not demand tips, gratuity, presents or commission

other than the rates as fixed under section 32 from any person engaging him or from any tourism unit operator in whose tourism unit such person resides or intends to reside.

#### **43. Insurance :-**

The adventure sports operator shall provide insurance cover as may be prescribed to persons availing of his services.

### **CHAPTER 5 APPEAL AND REVISION**

#### **44. Appeal :-**

(1) Subject to the provisions of sub-section (2), an appeal shall lie from every order of the prescribed authority under this Act to the appellate authority to be appointed by the Government.

(2) Every such appeal shall be preferred within ninety days from the date of communication of the order :

Provided that the appellate authority may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(3) The appellant shall have a right to be represented by a counsel or by a duly authorised agent and the prescribed authority may be represented by such officer or person as the prescribed authority may appoint.

(4) On receipt of any appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard and after making such inquiry as it deems proper, pass such order as it may deem fit, after recording the reasons thereof.

#### **45. Revision :-**

The revisional authority, to be appointed by the Government, may, either on its own motion or on an application made by an aggrieved

party, call for the records of any case disposed of by an appellate authority, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed by appellate authority and may pass such order thereon as it may deem fit and such order shall be final :

Provided that no such application for revision shall be entertained after the expiry of three months from the date of communication of the order passed by the appellate authority:

Provided further that revisional authority on its own motion can call for the record of any case decided or pending before any authority and pass such order as it may deem fit:

Provided further that no order under this section shall be made to the prejudice of a person unless he has had a reasonable opportunity of being heard either personally or through a counsel or by a duly authorised agent.

## **CHAPTER 6 OFFENCES AND PENALTIES**

### **46. Penalty for default in registration :-**

Any person carrying on the business of a tourism unit or travel agent or guide or adventure sport or any other business connected with tourist trade, as the case may be, without a proper registration under this Act or in contravention of any of the provisions of this Act, shall be punishable with imprisonment for a term not exceeding six months or with fine not exceeding ten thousand rupees or with both, and if the breach is a continuing one with a minimum fine of rupees two hundred per day and maximum of two thousand rupees per day till the default continues.

### **47. Penalty for false statement :-**

If any person who is required to make a statement under this Act, wilfully makes a false statement or suppresses a material fact with the intention to mislead the prescribed authority, he shall be punishable with imprisonment for a term which may extend to three months or with fine not exceeding two thousand rupees or with both.

**48. Certificate not to be assigned without permission :-**

Any person who lends, transfers or assigns the certificate of registration issued under this Act, without the permission in writing of the prescribed authority, shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding ten thousand rupees or with both.

**49. Certificate to be shown to persons on demand :-**

(1) Any person registered under this Act shall at all times, on demand, produce and show his certificate of registration to any of the following persons, namely :-

(a) the prescribed authority or any other officer duly authorised by it in this behalf ;

(b) any authority authorized by the Government or any officer authorized by the Director Tourism, Himachal Pradesh ; and

(c) any bonafide customer.

(2) Any person who refuses on demand to show his certificate to, or allowed to be read by, any of the persons authorized to demand it, shall be punishable with fine not exceeding five thousand rupees.

**50. Penalty for malpractice :-**

Any person who commits a malpractice or contravenes any other provision of this Act for which no specific penalty has been provided, shall be punishable with imprisonment for a term which may extend to three months or with fine not exceeding ten thousand rupees or with both.

**51. Obstructing lawful authorities :-**

If any person wilfully obstructs or offers any resistance to, or otherwise interferes with the discharge of the functions of the

prescribed authority or any other officer authorized by it, exercising any power, or performing any duties conferred or imposed upon it or him by or in pursuance of this Act or the rules made thereunder, he shall be liable to punishment with imprisonment which may extend to three months or with fine not exceeding one thousand rupees or with both.

## **52. Power of court to try cases summarily :-**

All offences under this Act shall be tried in a summary way by a Chief Judicial Magistrate or by any other Judicial Magistrate of the First Class specially authorized by the High Court and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973(2 of 1974) shall, as far as may be, apply to such a trial;

Provided that when at the commencement of or in the course of a summary trial under this section, it appears to the Magistrate that the nature of the case is such that it is for any reason, undesirable to try summarily, the Magistrate shall after hearing the parties record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

## **53. Institution of proceedings :-**

No prosecution shall be instituted against any person for any offence under this Act, except on a complaint made by the prescribed authority or the officer authorized by it or the Government in this behalf.

## **54. Powers of Prescribed authority to summon and enforce attendance of witness and other persons :-**

The prescribed authority shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while hearing an application under this Act in respect of the following matters, namely :-

(a) summoning and enforcing attendance of the complainant or the person against whom complaint is made under this Act and witness required in connection therewith;

(b) compelling the production of any document; and

(c) examining witnesses on oath, and may summon and examine suo motu any person whose evidence appears to be material.

## **55. Composition of offences :-**

(1) The prescribed authority may accept from any person who is reasonably suspected of having committed an offence under this Act, a sum of money by way of composition of such offence and may out of the money so received, compensate the person against whom the offence has been committed to the extent the prescribed authority deems reasonable.

(2) On the composition of offence, no further proceedings in respect thereof shall be taken against the accused and if any proceeding has already been instituted against him in a court, the composition shall have the effect of acquittal.

## **CHAPTER 7 MISCELLANEOUS**

### **56. Notification of changes :-**

(1) Whenever a tourism unit for which a certificate of registration is held by a person devolves by inheritance or otherwise upon any other person or undergoes a change in respect of any particular entered in the register under this Act, such person shall, within thirty days of the date of such devolution or change, notify in writing the fact to the prescribed authority.

(2) The prescribed authority shall make necessary changes in the register maintained for the purpose and in the certificate of registration.

(3) Notwithstanding anything contained in sub-section (2), the prescribed authority may remove from the register the name of the person in whose favour the certificate was issued and cancel the certificate of registration, if the successor is not eligible to be

registered under this Act.

**57. Return of the certificate of registration :-**

When a certificate of registration is cancelled under this Act, the person holding the certificate shall, within seven days from the date of service in the manner prescribed of the order of cancellation, return it to the prescribed authority.

**58. Duplicate certificate :-**

If a certificate of registration issued under this Act is lost, damaged or destroyed, the prescribed authority shall, on an application made in this behalf by that person holding such certificate and on payment of the prescribed fee, issue a duplicate certificate.

**59. Renewal of certificate :-**

The tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, registered under this Act shall get renewed the registration certificate after a period of three years from the date of issuance of registration certificate by the prescribed authority and shall also pay renewal licence fee as may be prescribed.

**60. Certificate of registration to be kept exhibited :-**

The certificate of registration shall be kept by a person holding it in a conspicuous place at the principal place of his business and if he has no principal place of business, he shall keep it on his person.

**61. Proceedings before the prescribed authority to be judicial proceedings :-**

All proceedings before the prescribed authority under this Act shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code, 1860 (45 of 1860).

**62. Indemnity :-**

No suit, prosecution or other legal proceedings, whatsoever shall lie against the Government or any person in respect of anything which is in good faith done or intended to be done under this Act.

### **63. Power of Government to apply Act to other persons :-**

The Government may, by notification in the Official Gazette, direct that all or any of the provisions of this Act or of the rules made thereunder shall, with such exceptions, adaptations or modifications as may be considered necessary, apply to persons doing the business in the State of Himachal Pradesh of outdoor photography or of letting or plying for hire house-boats, dongas, bathing boats, shikaras, dandis, pithus, ponies as may be specified in the notification and the prescribed authority may fix the rates to be charged for the services to be rendered.

### **64. Power to make rules :-**

(1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,-

(a) the maintenance of registers, books, and forms by tourism unit operators, travel agents, guides and adventure sports operators for the conduct of the business;

(b) the form of application for registration and certificate of registration;

(c) the fee for the registration, renewal and issuance of duplicate certificate;

(d) the manner of giving notices under this Act;

(e) classification of tourism units;

(f) qualifications for registration as tourism unit operator, travel agent, guide and adventure sports operator;



(g) safety measures and standards to be adopted in the conduct of adventure sports and facilities to be provided;

(h) standards for maintenance of hygiene and cleanliness, waste disposal and minimum facilities in various types of tourism units;

(i) manner of publication of the names and addresses of the tourism unit, travel agent, guide and adventure sports operator removed from the register ;

(j) manner in which the fair rates shall be displayed, type of tickets and receipts to be issued, submission and maintenance of accounts and statement thereof to the prescribed authorities and collection and deposit of licence fee, renewal fee and other dues;

(k) procedure for admission to training institutes, standard of syllabus, staff, equipment and buildings; and

(l) the place where prescribed authority shall hold enquiry under this Act and all matters expressly required to be prescribed under this Act.

(3) All rules made under this section shall be subject to the condition of previous publication.

## **65. Repeal and savings :-**

The Himachal Pradesh Registration of Tourist Trade Act, 1988 ( 9 of 1988) is hereby repealed : Provided that anything done or any action taken (including any notification issued, certificate or permission granted or proceedings commenced or continued) under the provisions of the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.