



**The Himachal Pradesh Village Common Lands Vesting and Utilization Act,
1974**

Act 18 of 1974

Keyword(s):

**Collector, Inhabitant of an Estate, Landless Person, Landowner, Panchayat,
Land and Private Forests**

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**THE HIMACHAL PRADESH VILLAGE COMMON LANDS
VESTING AND UTILIZATION ACT, 1974****ARRANGEMENT OF SECTIONS****Sections**

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(Act No. 18 of 1974)¹

[Received the assent of the Governor, on the 9th August, 1974, and was published in R.H.P. Extra., dated the 29th August, 1974 at p. 1231-1237]

An Act to provide for vesting and utilization of village common lands in the State of Himachal Pradesh.

Be it enacted by the Legislative Assembly of the State of Himachal Pradesh in the Twenty-fifth Year of the Republic of India as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974.

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

(3) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “Collector” means the Collector of the district in which the estate is situated and includes an Officer,² not below the rank of an Assistant Collector of the First Grade, appointed² by the State Government to perform the functions of a Collector under this Act ;

(b) “inhabitant of an estate” means a person, whether a proprietor or a non-proprietor, who ordinarily resides in an estate :

Provided that a temporary absence or absence in relation to employment elsewhere shall not affect his residence in the estate ;

(c) “landless person” means a person who holding no land for agricultural 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 ;

(d) “landowner” means a person having a share in the shamilat land as recorded in the land records and includes a panchayat ;

(e) “panchayat” means a panchayat constituted under the Himachal Pradesh Panchayati Raj Act, 1968 (19 of 1970) ;

1. For Statement of Objects and Reasons, see R.H.P. Extra., dated the 22nd October, 1973, Page 1606.

2. For Officers appointed under this cl. see Not. No. 2-27/73-Rev-I, dt. 31st December, 1974, appended.

- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "State Government" means the Government of Himachal Pradesh ;
- (h) the words "land" and "private forests" have the same meanings as assigned to these words in the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (19 of 1973) ; and
- (i) all other words and expressions used in this Act but not defined in it shall have the same meanings as assigned to such words and expressions in the Punjab Land Revenue Act, 1887 (17 of 1887) or the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) as the case may be.

3. Vesting of rights in the State Government.—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force or in any agreement, instrument, custom or usage or any decree or order of any court or other authority, all rights, title and interests including the contingent interests, if any, of the landowner in the lands in any estate—

- (a) vested in a Panchayat under section 4 of the Punjab Village Common Lands (Regulation) Act, 1961 (18 of 1961) as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966) except lands used or reserved for the benefit of village community including streets, lanes, playgrounds, schools, drinking wells or ponds within abadi deh or gorah deh ;
 - (b) described in the revenue records as shamilat Karaf, pattis, pannas and thola and not used according to revenue records for the benefit of the village community or a part thereof or for common purposes of the village in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) ; and
 - (c) described in revenue records as shamilat, shamilat deh, shamlat taraf, shamlat chak and patti in the areas comprised in Himachal Pradesh, immediately before first November, 1966 ;
- shall stand extinguished and all such rights, title and interests shall vest in the State Government free from all encumbrances.

(2) The provisions of sub-section (1) of this section shall not apply to lands described in clauses (b) and (c) of that sub-section if, before the date of commencement of this Act—

- (a) partition of such lands is made by the individual co-sharers through a process of law by a competent court or authority ;

(b) transfer of such lands is made by the landowner by way of sale, gift or exchange ;

(c) such land built upon by an inhabitant by raising a residential house or cow-shed.

(3) The State Government shall be liable to pay, and the landowners whose rights have been extinguished under sub-section (1) of this section shall be entitled to receive, the amount in lieu thereof, at the following rates —

(i) for the land reserved for grazing and other common purposes under clause (a) of sub-section (1) of section 8, five times the annual land revenue including rates and cesses chargeable thereon ; and

(ii) for the remaining land, fifteen times the annual land revenue including rates and cesses chargeable thereon :

Provided that where the land vested in the State Government under this Act is not assessed to land revenue, the same shall be construed to be assessed as on similar land in the estate and if not available in the estate then in the adjoining estate or estates, as the case may be.

(4) The amount paid to a Panchayat under section 7 shall be deemed to be the Sabha Fund and shall be utilized for such purposes as are mentioned in section 40 of the Himachal Pradesh Panchayati Raj Act 1968, (19 of 1970).

(5) The Collector may, by order in writing, at any time after the land vested in the State Government, direct the landowners to deliver possession thereof within 10 days from the service of the order to such person as may be specified in the order.

(6) If the landowners refuse or fail without reasonable cause to comply with the order made under sub-section (5), the Collector may take possession of the land and may for that purpose use, such force as may be necessary.

4. Treatment of leases made by Panchayats.—(1) The Collector shall call for from Panchayats in his district, the record of leases, contracts or agreements entered into by the Panchayats in respect of any land vested in the Panchayats under the Punjab Village Common Lands (Regulation) Act, 1961 (18 of 1961) and the rules made thereunder and examine such record for satisfying himself as to the legality or propriety of such leases, contracts or agreements.

(2) Where on examination of the record under sub-section (1) and after making such enquiry as he deems fit, the Collector is satisfied that such leases,

contracts or agreements are in accordance with the provisions of the said Act and rules, he shall pass orders declaring such leases, contracts or agreements having been made on behalf of the State Government.

(3) Where on such examination and enquiry the Collector finds that a lease, contract or agreement has been entered into in contravention of any of the provisions of the said Act or the rules made thereunder or has been entered into as a result of fraud or concealment of facts or is detrimental to the interest of the estate right-holders, he shall cancel such a lease, contract or agreement and such person shall be liable to ejection under the provisions of section 150 of the Punjab Land Revenue Act, 1887 (17 of 1887) :

Provided that no order under sub-sections (2) and (3) of this section shall be passed by the Collector without affording an opportunity of being heard to the parties to the lease, contract or agreement.

5. Treatment of encroachments on lands vested in the State Government.

Where land vested in the State Government has been encroached upon by any person before or after the commencement of this Act, the Revenue Officer may of his own motion eject such person in accordance with the provisions of section 150 of the Punjab Land Revenue Act, 1887 (17 of 1887) or section 163 of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1964) as the case may be.

6. Determination of amount payable to landowners—(1) The Collector shall cause a notice to be served, in the prescribed form and manner, to the landowner, whose rights have been extinguished under sub-section (1) of section 3, stating therein, the area of land vested in the State Government and the amount proposed therefor, immediately after the commencement of this Act, calling upon him to prefer objections, if any, within 60 days from the receipt of the notice:

Provided that the Collector may entertain the objections after the expiry of the said period of 60 days if he is satisfied that the landowner was prevented by sufficient cause from filing the objections within the prescribed time.

(2) The Collector after giving the landowner or landowners, as the case may be, an opportunity of being heard and making such inquiry as may be necessary, shall make an award determining the amount payable by the State Government to the landowners in accordance with the provisions of sub-section (3) of section 3 and also apportion the amount thereof among the landowners.

(3) Where the amount is payable to a minor, the Collector may make such arrangements as may be equitable having regard to the interest of the minor.

7. Payment of amount.—The amount payable to a landowner under section 6 shall be paid in the manner and in such number of six monthly instalments not exceeding ten as may be prescribed.

8. Utilization of land vested in the State Government.—(1) All lands vested in the State Government under this Act shall be utilized for the following purposes :—

- (a) an area not less than fifty per cent of the total area vested in the State Government under section 3 of this Act for grazing and other common purposes of the inhabitants of an estate ; and
- (b) the remaining land for allotment to a landless person or a person whose holding is less than one acre to make his holding one acre under a scheme to be framed by the State Government by notification in the Official Gazette. The allottee shall pay an amount at the rate of forty-eight times the land revenue and rates and cesses chargeable on the land allotted to him under the said scheme, either in lump sum or in six monthly instalments not exceeding four.

(2) The land reserved under clause (a) of sub-section (1) of this section shall be demarcated by such Revenue Officer and in such manner as may be prescribed.

(3) Any scheme framed by the State Government under clause (b) of sub-section (1) of this section may provide for the terms and conditions on which the land 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.

9. Appeal.—An appeal from the order of a Collector passed under this Act shall lie to the State Government or an Officer¹ to be authorised by it, by a notification, within 60 days of passing of the order.

10. Bar of jurisdiction.—Save as otherwise expressly provided in this Act, no order made by the Collector or the State Government or any officer authorised by it, as the case may be, shall be called in question by any court or before any officer or authority.

11. Bar to legal proceedings.—No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or authority for any act which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

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

13. Power to make rules.—(1) The State Government may, by notification, in the official gazette make rules² for carrying out the purposes of this Act.

1. Divisional Commissioner authorised as such an officer,—*vide* Not. No. 2-27/73-Rev. I, dated 17th September, 1975 (Appended).

2. Rules framed,—*vide* Notification No. 10-1/73-Rev. A, dated 12th February, 1975 (Appended).

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the form and manner in which a notice is to be served under section 6 ;
- (b) for fixing of instalments and the manner in which, the payment of amount is to be made under section 7;
- (c) the manner in which the land under sub-section (3) of section 8 to be demarcated ;
- (d) the manner and procedure in which enquiries may be held under section 12 ; and
- (e) any other matter which has to be or may be prescribed under this Act.

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

(4) 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 not less than seven days, which may be comprised in one session or in 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.

14. 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.

15. Repeal and savings.—(1) With effect from the commencement of this Act the Punjab Village Common Lands (Regulation) Act, 1961 (18 of 1961) in its application to the territory added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966), shall stand repealed.

(2) Save as provided in section 4 the repeal of the said Act shall not affect anything done or any action taken thereunder.

(3) Subject to the provisions of sub-section (2) no authority shall pass an order in any proceedings whether instituted before or after the commencement of this Act which is inconsistent with the provisions of this Act.

THE HIMACHAL PRADESH VILLAGE COMMON LANDS VESTING AND UTILISATION (AMENDMENT) ACT, 1987

(Act No. 10 of 1987)¹

ARRANGEMENT OF SECTIONS

Sections:

1. Short title and commencement.
2. Amendment of section 2.
3. Amendment of section 8.
4. Savings.

(Received the assent of the Governor, Himachal Pradesh, on the 8th May 1987 and was published in R. H. P. Extra., dated 8-5-1987 P. 777-778)

An Act further to amend the Himachal Pradesh Village Common Lands Vesting and Utilisation Act, 1974 (Act No. 18 of 1974).

Enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-eighth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Himachal Pradesh Village Common Lands Vesting and Utilisation (Amendment) Act, 1987.

(2) It shall be deemed to have come into force with effect from the date of commencement of the Himachal Pradesh Village Common Lands Vesting and Utilisation Act, 1974 (18 of 1974).

2. *Amendment of section 2.*—In section 2 of the Himachal Pradesh Village Common Lands Vesting and Utilisation Act, 1974 (18 of 1974) (hereinafter called the principal Act), —

(i) after the existing clause (a), the following clauses (aa) and (aaa) shall be inserted, namely:—

“(a) “handicapped person” means a crippled, 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 qualification.

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;”

(aaa) “houseless person” means a person who owns no house or a site to construct a house for himself ;

1. For Statement of Objects and Reasons see R.H.P. Extra, dated 1-4-1987, p. 267.

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;"

- (ii) for the sign ";" occurring at the end of clause (c), the sign ":" shall be substituted and thereafter the following proviso shall be added, namely :—

"Provided that a person whose father is alive or whose annual income from all sources exceeds Rs. 3000/- shall not be deemed to be a landless person;" and

- (iii) after the existing clause (d), the following clause (dd) shall be added,—

"(dd) "other eligible person" means a person,—

- (i) who, holding land for agricultural purposes less than an acre whether as an owner or a tenant, earns his livelihood principally by a 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. 3000/-;

and shall not include a person who holds a share of a portion of an estate jointly owned or cultivated by two or more persons."

3. *Amendment of Section 8.*—For clause (b) of sub-section (1) of section 8, the following clause (b) shall be substituted, namely:—

"(b) the remaining land—

- (i) for allotment to a landless person or any other eligible person;
or
- (ii) for allotment of site to a handicapped or houseless person for the construction of a house;

under a scheme to be framed by the State Government by notification in the Official Gazette and the allottee shall pay an amount at the rate of forty-eight times of the land revenue and rates and cesses chargeable on the land allotted to him under the said scheme, either in lump sum or in six monthly instalments not exceeding four."

4. *Savings.*—Where any allotment of land made under any scheme, framed under the principal Act, is found to be inconsistent with the provisions made in the principal Act, as amended by sections 2 and 3 of this Act, then notwithstanding anything to the contrary contained in any judgement, decree or order of any court, or any other law for the time being in force, it shall be lawful for an officer especially empowered by the State Government for this purpose, to cancel such allotment and take possession of the land so allotted :

Provided that no order under this section shall be passed without affording an opportunity of being heard to the allottee of the land in question.

**THE HIMACHAL PRADESH VILLAGE COMMON LAND VESTING
AND UTILISATION (AMENDMENT) ACT, 1997**

ARRANGEMENT OF SECTIONS

Sections:

1. Short title.
2. Amendment of section 8.
3. Amendment of section 8-A.

**THE HIMACHAL PRADESH VILLAGE COMMON LAND VESTING
AND UTILISATION (AMENDMENT) ACT, 1997**

(Act No. 12 of 1997)¹

(Received the assent of the Governor on 3rd May, 1997 and was published in Hindi and English in R.H.P. Extra., dated 7.5.1997, p. 1683 and 1684).

An Act further to amend the Himachal Pradesh Village Common Land Vesting and Utilisation Act, 1974 (Act No. 18 of 1974).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-eighth Year of the Republic of India as follows:-

1. Short title.- This Act may be called the Himachal Pradesh Village Common land Vesting and Utilisation (Amendment) Act, 1997.

2. Amendment of section 8.- In section 8 of the Himachal Pradesh Village Common Land Vesting and Utilisation Act, 1974 (18 of 1974) (hereinafter called the principal Act),-

(a) in sub-section (1), in clause (b), in sub-clause (i), after the words "landless person", the sign and words, "a victim of natural calamities" shall be added ; and

(b) at the end, the following explanation shall be added, namely:-

"Explanation.- For the purpose 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."*"*

3. Amendment of section 8-A.- In section 8-A of the principal Act, for the words "by lease to any person", the words "by transfer whether by way of lease or exchange to any person" shall be substituted.

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 25.3.1997, pages 990 and 992.

4. Amendment of section 4.
5. Substitution of section 5.
6. Amendment of section 8.
7. Amendment of section 8-A.
8. Insertion of section 9-A.

**THE HIMACHAL PRADESH VILLAGE COMMON LANDS
VESTING AND UTILIZATION (AMENDMENT) ACT, 2001**

(ACT NO 20 OF 2001)¹

(Received the assent of the Governor on the 27th September, 2001 and published in Hindi and English in R.H.P. Extra., dated 1st October, 2001 at pages 2741-2746).

An Act further to amend the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (Act No. 18 of 1974).

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

1. Short title and commencement.- (1) This Act may be called the Himachal Pradesh Village Common Lands Vesting and Utilization (Amendment) Act, 2001.

(2) The provisions of this Act, shall be deemed to have come into force with effect from the date, the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (18 of 1974) came into force.

2. Amendment of section 2.- In section 2 of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (hereinafter referred to as "the principal Act") :-

(a) after clause (a), the following shall be added, namely:-

"(a-1) "common purposes" means and includes grazing, collection of fuel wood and tree leaves for fodder, school buildings, Panchayat Ghara, Mahila Mandal, Bhawans, School Playgrounds, Community Halls, Janj Ghars, Dispensaries, Government Offices, Kisan Mandies, tree plantation under various State Government Schemes and any other public facilities;"

(b) in clause (aa), for the words "rupees seven thousand and five hundred", the words and sign "the limit fixed for persons living

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 22.8.2001, P. 2034 & 2039.

below property line as notified by the State Government from time to time," shall be substituted; and

- (c) in provisos below clauses (aaa) and (c) and in sub-clause (iii) of clause (dd), for the word, sign and figure "Rs. 3000/-", the words and sign "the limit fixed for persons living below poverty line as notified by the State Government from time to time," shall be substituted.

3. Amendment of section 3.- In section 3 of the principal Act,-

(a) in sub-section (1), for clauses (b) and (c), the following shall be substituted, namely:-

"(b) described in the revenue records as shamlat taraf, pattis, pannas, thola, shamlat, shamlat deh, shamlat chak, shamlat tika or by any such other description and not used according to revenue records for the benefit of the community in the village or a part thereof or for common purposes of the village in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966 (31 of 1966); and

(c) described in revenue records as shamlat, shamlat deh, shamlat taraf, shamlat chak, Patti or by any other such description in the areas comprised in Himachal Pradesh immediately before 1st November, 1966."

(b) in sub-section (2), after clause (c), the following shall be added, namely:-

"(d) land recorded as "shamlat tika Hasab Rasad Malguzari" or by any such other name in the ownership column of jamabandi and assessed to land revenue and has been continuously recorded in cultivating possession of the Co-sharers so recorded before 26th January, 1950 to the extent of their shares therein:

Provided that the provisions of this clause shall not be applicable to such land which have already been put to use by the Government."

4. Amendment of section 4.- In section 4 of the principal Act, in sub-section (2), after words "State Government", the words "and will fix the lease money at the rate notified by the State Government from time to time. Such lease money shall be recovered by the Panchayat concerned from the lessee," shall be added.

5. Substitution of section 5.- For section 5 of the principal Act, the following shall be substituted, namely:-

"5. Treatment of encroachments on shamlat land or the lands vested in the State Government.- Where the land vested in the

State Government or the shamlat land by whatever term it is recorded in the revenue records, which has not vested in the State Government, has been encroached upon by any person or co-sharer before or after the commencement of this Act, the Revenue Officer may of his own motion or on the report of the Patwari of the circle duly verified by the Kanungo of the circle or on the application of any estate right holder or co-sharer, eject such person in accordance with the provisions of section 163 of the Himachal Pradesh Land Revenue Act, 1954."

6. Amendment of section 8.- In section 8 of the principal Act, in sub-section (1), in clause (b), after sub-clause (ii), the following shall be added, namely:-

"(iii) for allotment of land to the eligible persons under the schemes notified by the State Government for providing houses to the poorer sections of the society."

7. Amendment of section 8-A. - In section 8-A of the principal Act,-

(a) after the words "State Government" and before the words "may utilize", the words "or any other officer authorised by the State Government in this behalf" shall be added; and

(b) after the words "State Government" and before the words "is satisfied", the words "or the Officer authorised by it" shall be added.

8. Insertion of section 9-A.- After section 9 of the principal Act, the following shall be inserted, namely:-

"9-A. Review.- (1) The Collector or the Officer authorised by the State Government under section 9 may, either on his own motion or on the application of any party interested, review and on so reviewing, modify reverse or confirm any order passed by himself or by any of his predecessors in office.

(2) No order shall be modified or reversed in review unless a notice has been given to the parties affected thereby to appear and be heard in support of the order.

(3) An order against which an appeal has been preferred shall not be reviewed.

(4) An application for review of an order shall not be entertained unless it is made within 90 days of the passing of the order, or unless the applicant satisfies the Collector or an Officer authorised by the State Government that he had sufficient cause for not making the application within that period."