

Government of Himachal Pradesh
Vidhan Sabha



**THE HIMACHAL PRADESH
(TRANSFERRED TERRITORY)
TENANTS (PROTECTION OF RIGHTS) BILL,
1968**

(REPORT OF THE SELECT COMMITTEE)

PRESENTED ON THE 29TH MARCH, 1968

**HIMACHAL PRADESH VIDHAN SABHA SECRETARIAT SIMLA-4
MARCH, 1968**

CONTENTS

			<i>Page</i>
1. COMPOSITION OF THE SELECT COMMITTEE	..	-	1
2. REPORT OF THE SELECT COMMITTEE	-	2
3. BILL AS AMENDED BY THE SELECT COMMITTEE	4

APPENDICES

APPENDIX I	MOTION FOR REFERENCE TO THE SELECT COMMITTEE	..	7
APPENDIX II	MINUTES OF THE SITTINGS OF THE SELECT COMMITTEE	..	8

**THE HIMACHAL PRADESH (TRANSFERRED TERRITORY)
TENANTS (PROTECTION OF RIGHTS) BILL, 1968**

COMPOSITION OF THE SELECT COMMITTEE

Chairman

1. SHRI LAL CHAND PRARTHI

Members

2. SHRI ARJAN SINGH
3. SHRI DURGA CHAND
4. SHRI HARDYAL
5. SHRI ISHAR DASS
6. SHRI KULTAR CHAND
7. SHRI PARAS RAM
8. SHRI PARKASH CHAND
9. SHRI RANJIT SINGH
10. SHRI VED BHUSHAN

REPORT

1. The Chairman of the Select Committee to which the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Bill, 1968, to protect the tenants in the transferred territory against eviction from their holdings and for the matter, incidental or ancillary thereto, was referred, having been authorised to submit the report on their behalf, present their Report with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the House on the 18th January, 1968.

3. The motion for reference of the Bill to a Select Committee was moved by Shri Lal Chand Prarthi, Revenue Minister on the 25th March, 1968, and was adopted on the same day. (Appendix I)

4. The Committee held two sittings in all.

5. The first sitting of the Committee was held on the 26th and the second on the 27th March, 1968.

6. The Bill was considered clause by clause along with the amendments that stood referred to the Committee under Rule 221 and were moved by the members of the Select Committee. The report was adopted in the second sitting.

7. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraph.

8. *Clause 2.*—“local authority” to be defined to include Zila Parishads, Panchayat Samities and Panchayats.

Clause 3 (1) (b) Substitute “one year” for the existing words “two years”.

Clause 3 (2) (a) To be substituted by the following:—

“if the tenant holds his tenancy from a person of Armed Forces who wants to cultivate the land himself on his ceasing to be a member of the Armed Forces, and is entitled to resume the land comprised in the holding or such part under the provisions of the Punjab Security of Land Tenures Act, 1953 or the Pepsu Tenancy and Agricultural Lands Act, 1955, as the case may be; or”

Clause 3 (2) (b) Delete ‘;’ in the end and add the words “has sublet his tenancy or part thereof” and after putting a ‘;’ the following proviso be added:—

“provided that where only a part of the tenancy has been sublet, the tenant shall be liable to be evicted only from such part; or”

Clause 3 (2) (d) Substitute “three” for the word “six”.

Clause 5 (1) Delete the words occurring after the word “Act” and before the word “the” and add the words “otherwise than by due process of law,”.

Delete “on his own motion or” in line 32 and after the words “an application made” and before the words “by the” in the same line the words “in that behalf by such tenant within three months of the commencement of this Act”, be added. Thereafter delete the words “by the tenant” and put a “;”.

Clause 5 (2) In line 43 and 44 the words “other than any of those mentioned in sub-section (2) of section 3” occurring after the word “ground” and before the word “order” may be deleted and the words “otherwise than by due process of law” be inserted and ‘;’ be put after the word “order”.

Clause 6 Delete.

Clause 7 Delete.

Clause 8 Delete.

Clause 10 Delete ':' after the word "Government" and add "or local authority."

Clause 11 Delete.

Clause 12 (2) (b) Delete.

Clause 12 (2) (c) Delete.

Clause 12 (2) (d) Delete.

9. The Select Committee recommend that the Bill as amended be passed.

SIMLA-4:
The 27th March, 1968.

LAL CHAND PRARTHI,
Chairman.

Bill No. 9 of 1968

**THE HIMACHAL PRADESH (TRANSFERRED TERRITORY)
TENANTS (PROTECTION OF RIGHTS) BILL, 1968**

(AS REPORTED BY THE SELECT COMMITTEE)

(Words side-lined or under-lined indicate the amendments suggested
by the Committee; asterisks indicate omissions)

A

BILL

*to protect the tenants in the transferred territory in the Union territory of
Himachal Pradesh against eviction from their holding and for the
matters incidental or ancillary thereto.*

BE it enacted by the Legislative Assembly of the Union territory of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

Short title
and extent.

1. (1) This Act may be called the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1968.

(2) It extends to the whole of the transferred territory in the Union territory of Himachal Pradesh.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) 'competent authority' means any person or authority authorised by the Government by notification in the official gazette to perform the functions of a competent authority under this Act for such area as may be specified in the notification;

(b) 'Government' means the Lieutenant Governor of Himachal Pradesh;

(c) 'Official Gazette' means the Rajpatra, Himachal Pradesh;

(d) 'local authority' includes Zila Parishads, Panchayat Samities, Panchayats and other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund;

(e) 'prescribed' means prescribed by rules made under this Act;

(f) 'transferred territory' means the territory transferred to the Union territory of Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966;

31 of 1966.

(g) all other words and expressions used in this Act and not defined but defined in:—

(i) the Pepsu Tenancy and Agricultural Lands Act, 1955, in relation to the area in which that Act is in force;

13 of 1955.

or

(ii) the Punjab Security of Land Tenures Act, 1953 in relation to the area in which that Act is in force, shall have the meanings respectively assigned to them in the Pepsu Tenancy and Agricultural Lands Act, 1955 or, as the case may be, in the Punjab Security of Land Tenures Act, 1953.

10 of 1953

13 of 1955.

10 of 1953.

Stay of
eviction
proceedings.

3. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract:—

(a) no suit, proceedings in execution of decrees or orders, or other

proceedings for eviction of a tenant from his holding or any part thereof shall lie in any court; and

- (b) all suits, proceedings in execution of decrees or orders and other proceedings for such eviction pending in a court at the commencement of this Act, shall, for a period of one year from such commencement, be stayed.

(2) Nothing in sub-section (1) shall preclude a court from ordering the eviction of a tenant from his holding or any part thereof:—

- (a) if the tenant holds his tenancy from a person of Armed Forces who wants to cultivate the land himself on his ceasing to be a member of the Armed Forces, and is entitled to resume the land comprised in the holding or such part under the provisions of the Punjab Security of Land Tenures Act, 1953 or the Pepsu Tenancy and Agricultural Lands Act, 1955, as the case may be; or
- (b) if the tenant has used the land comprised in the holding or such part in a manner which renders it unfit for the purpose for which it was let or has sublet his tenancy or part thereof:

Provided that where only a part of the tenancy has been sublet, the tenant shall be liable to be evicted only from such part; or

- (c) where the rent is payable in kind, if the tenant has failed without sufficient cause to cultivate the land comprised in the holding or such part in the manner or to the extent customary in the locality in which the holding or such part is situate; or
- (d) if a decree for arrears of rent in respect of the tenancy has been passed against the tenant and has not been satisfied within three months thereof.

4. Notwithstanding anything contained in section 3, if at the commencement of this Act, any suit or other proceeding for eviction of a tenant for non-payment of arrears of rent is pending in a court, the court may, on an application made to it within the prescribed period by the landowner treat such suit or other proceeding as a suit or other proceeding for recovery of arrears of rent and dispose it of accordingly.

Suits or other proceedings for eviction due to non-payment of arrears of rent to be treated as suits or proceedings for recovery of arrears of rent.

5. (1) Where a tenant who was in occupation of his holding or any part thereof on or after the 1st day of November, 1966, but has been evicted from such holding or part before the commencement of this Act, otherwise than by due process of law, the competent authority may, on an application made in that behalf by such tenant within three months of the commencement of this Act, initiate action for the reinstatement of such tenant in accordance with the provisions of this section.

Reinstatement of tenant.

(2) The competent authority shall give notice to the landowner and to the person, if any, in possession of such holding or part thereof and shall, on being satisfied, after such summary inquiry as he may consider necessary, that the tenant was evicted on any ground otherwise than by due process of law, order that the tenant be re-instated in such holding or part and that the person in possession of such holding or part be evicted therefrom:

Provided that if at the time of making any such order there are any standing crops in such holding or part, the competent authority shall not enforce the order in respect of such holding or part, as the case may be, until the crops are harvested.

(3) Every order made by the competent authority under this section shall be enforceable in such manner as if it were a decree for eviction passed by a competent court.

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*** *** ***

Revision.

6. The Financial Commissioner may, of his own motion or on an application made to him in that behalf by any person aggrieved by any order passed by a competent authority call for the record of any case disposed of by the competent authority under this Act and may pass such order thereon as may appear to him to be just and equitable:

Provided that no order affecting any person shall be passed under this section unless such person is given an opportunity of being heard in the matter.

Exemption.

7. Nothing in this Act shall apply to lands belonging to Government or local authority.

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Power to make rules.

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

(2) Without prejudice to the generality of the foregoing power, such rules may provide for:—

(a) the period within which an application may be made to a court under section 4; and

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*** *** ***

(b) any other matter which is to be or may be prescribed under this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides 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 or anything previously done under that rule.

APPENDIX I

Vide para 3 of the Report

Motion in Vidhan Sabha

“कि दि हिमाचल प्रदेश (ट्रांसफंड टैरीटरी) टेनेण्ट्स (प्रोटैक्शन आफ राईट्स) बिल, १९६८ (बिल नं० ९ आफ १९६८) को सदन की एक प्रवर समिति को भेजा जाये जिसको विधेयक में परिवर्तन और परिवर्द्धन करने का अधिकार हो और जो अपना प्रतिवेदन इस सदन को २९ मार्च, १९६८ को प्रस्तुत करे।”

“कि दि हिमाचल प्रदेश (ट्रांसफंड टैरीटरी) टेनेण्ट्स (प्रोटैक्शन आफ राईट्स) बिल, १९६८ को इस सदन की प्रवर समिति को निर्दिष्ट करने के सम्बन्ध में इस सदन द्वारा पारित प्रस्ताव के अनुसार इस प्रवर समिति के ये सदस्य निर्वाचित किये जायें :—

१. श्री हरदयाल
२. श्री कुलतार चन्द
३. श्री प्रकाश चन्द
४. श्री अर्जुन सिंह
५. श्री ईशर वास
६. श्री दुर्गा चन्द
७. श्री परस राम
८. श्री रणजीत सिंह
९. श्री वेद भूषण, और
१०. राजस्व मन्त्री”

APPENDIX II

MINUTES OF THE SITTINGS OF

THE SELECT COMMITTEE ON THE HIMACHAL PRADESH (TRANSFERRED
TERRITORY) TENANTS (PROTECTION OF RIGHTS) BILL, 1968

(No. 9 OF 1968)

First Sitting

The Committee met from 4.00 P.M. to 7.00 P.M. on Tuesday the 26th
March, 1968.

Present

1. Shri Lal Chand Prarthi, Revenue Minister—*Chairman*

Members

2. Shri Paras Ram
3. Shri Ved Bhushan
4. Shri Ishar Dass
5. Shri Ranjit Singh
6. Shri Durga Chand
7. Shri Hardyal
8. Shri Prakash Chand

Secretariat

1. Shri D. B. Lal—*Secretary*.
2. Shri Surendranath—*Under Secretary*.

The Committee considered the Bill clause by clause taking into account the amendments that had been given notice of after the Bill had been introduced and stood referred to the Committee.

The Committee decided upon the following amendments:—

Clause 2 Sub-Clause (c) Delete.

Clause 2 "local authority" to be defined to include Zila Parishads and Panchayats.

Clause 3 (b) Substitute "one year" for the existing words (two years).

Clause 3 (2) (b) Add at the end "has sublet his tenancy or part thereof; or".

Clause 3 (2) (d) Substitute "three" for the word (six).

Clause 5 (1) In line 31, after the ',' occurring after the word and figure (Section 3) and before the word (the) add "otherwise than by due process of law".

Delete (on his own motion or) in line 3 and add after the words (an application made) and before the words (by the) in the same line "within three months of the commencement of this Act,".

Clause 5 (2) In line 44 after ',' occurring after the word and figure (section 3) and before the word (order) add "otherwise than by due process of law".

Clause 6 Delete.

Clause 7 Delete.

Clause 8 Delete.

Clause 10 Delete ',' after the word (Government) and add "or local authority".

Clause 11 Delete.

Clause 12 (2) (b) Delete.

Clause 12 (2) (c) Delete.

Clause 12 (2) (d) Delete.

The Committee then adjourned to meet again at 4.00 P.M. on Wednesday, the 27th March, 1968 to consider the remaining clauses.

Second Sitting

The Committee met from 4.30 P.M. to 6.30 P.M. on Wednesday the 27th March, 1968,

Present

1. Shri Lal Chand Prarthi, Revenue Minister—*Chairman*

Members

2. Shri Paras Ram
3. Shri Ved Bhushan
4. Shri Ishar Dass
5. Shri Ranjit Singh
6. Shri Durga Chand
7. Shri Hardyal
8. Shri Prakash Chand
9. Shri Kultar Chand
10. Shri Arjan Singh

Secretariat

1. Shri D. B. Lal *Secretary.*
2. Shri Surendranath *Under Secretary.*
3. Shri S. L. Talwar *Under Secretary.*

The Committee reconsidered clauses 2 (c), (d), 3 (2) (a), (b) and clause 5 (1), (2) and decided as follows:—

Clause 2 (c) It was adopted as standing in the original Bill.

Clause 2 "local authority" to be re-defined to include Zila Parishads, Panchayat Samities and Panchayats.

Clause 3 (2) (a) This was substituted by the following as new clause 3 (2) (a):—

"if the tenant holds his tenancy from a person of Armed Forces who wants to cultivate the land himself on his ceasing to be a member of the Armed Forces, and is entitled to resume the land comprised in the holding or such part under the provisions of the Punjab Security of Land Tenures Act, 1953 or the Pepsu Tenancy and Agricultural Lands Act, 1955, as the case may be; or"

Clause 3 (2) (b) Delete ',' and the word "or" in the end and after putting a ',' add the following proviso:—

"provided that where only a part of the tenancy has been sublet, the tenant shall be liable to be evicted only from such part; or"

Clause 5 (1) In line 31 after the ',' occurring after the word and figure (Section 3) and before the word (the) add "otherwise than by due process of law."

Clause 5 (2) In lines 43 and 44 the words (other than of those mentioned in sub-section (2) of section 3,) occurring after the word (ground) and before the word (order) may be deleted and the words "otherwise than by due process of law" be inserted.

2. The Committee adopted the Bill as amended.
3. The Committee thereafter considered the Draft Report and adopted the same.

The Committee then adjourned.