

RULES UNDER LAND PRESERVATION ACT, 1978

In exercise of powers conferred under section 21 of the Himachal Pradesh Land Preservation Act, 1978 (Act No. 28 of 1978), the Governor, Himachal Pradesh is pleased to make the provisions of the said Act.

THE HIMACHAL PRADESH LAND PRESERVATION RULES, 1983

Short title and commencement

The following rules for purposes of carrying into effect.

1. (i) These rules may be called the Himachal Pradesh Land Preservation Rules, 1983.
- (ii) These rules shall come into force with immediate effect.

Definitions

2. In these rules, unless the context otherwise requires

- a) "Act" means the "Himachal Pradesh Land Preservation Act, 1978" (28 of 1978).
- b) "Section" means the section of the Act.
- c) "Chief Conservator of Forests" means the Chief Conservator of Forests, Himachal Pradesh.
- d) "Divisional Forest Officer" means the Forest Officer incharge of a territorial Forest Division.
- e) "Range Officer" means the Forest Office incharge of a territorial Forest Range.
- f) "Forest Guards" means the Forest Guard in- charge of a territorial Forest beat.
- g) "Form" means a form appended to these rules.
- h) "Term" bonafide domestic or agricultural purposes shall not include:-
 - (i) Removal and use of timber for construction work, or any other forest produce other than grass outside the Revenue Estate in which the land is situated.
 - (ii) Use of firewood for burning of bricks, manufacture of katha or any other manufacturing process except burning of charcoal for domestic local use; and
- i) All other words and expressions used herein but not defined and defined in the Himachal Pradesh Land Preservation Act, 1978, have the meanings respectively assigned to them in that Act.

Procedure to be adopted for holding enquiry under section 7 before issuing a Notification order under Section 4, 5 and 6

3. (1) Before issuing a Notification in respect of any area under Section 4, 5 or 6, an enquiry shall be held by a Gazetted Officer nominated by the Chief Conservator of Forests to ascertain the facts for issue of such notification.

(2) The said Officer shall visit the area(s) to be notified and among other things, may examine the following aspects:-

- i. The situation of the area.
- ii. Configuration and condition of the area.
- iii. Present land use practices and their effect on general sub soil water table.
- iv. Extent and degree of water and wind erosion and reasons of erosion.
- v. Attitude of the public regarding imposing of restrictions.
- vi. Whether the existing management is adequate to maintain and improve the soil status or not.

(3) And or base his enquiry on the overall damage caused to property, land and tree growth which may have been assessed as a consequence of any study made in regard to damage caused due to floods or other natural calamities.

(4) After the completion of enquiry, the Chief Conservator of Forests shall forward the same to the State Government with his recommendations.

(5) The State Government after satisfying itself may issue a Notification, to temporarily regulate, restrict or prohibit an action, under section 4, 5 or 6 for a period not more than 30 years.

Procedure for issue of permits for removal of Forest Produce from area closed under Sections 4 & 5.

4. (1) For Bonafide Domestic & Agricultural Purposes-

(a) There will be no restriction the use of forest produce for bonafide domestic purposes of fuel and fodder.

(b) The owners for their bonafide domestic and agricultural use may fell trees as per procedure and extent of trees specified under Notifications issued under section 4 or 5 of the Act.

(c) The trees allowed for felling for bonafide domestic and agricultural use will be marked as per instructions of Chief Conservator of Forests, Himachal Pradesh.

(d) The owners shall send written information regarding the trees felled without permission to the Range Officer concerned, through beat guard. Range Officer shall send a copy of such information to Divisional Forest for his record.

(e) The Beat Guard shall maintain a proper record on a Register of all such felling done for domestic and agricultural use with or without permission as per Notification issued under Section 4 and shall affix his hammer mark on such felled stumps. The produce of such trees may be checked by him from time to time till it is consumed for the purpose for which it has been converted. No export of any part of the produce of such trees will be allowed.

(2) (a) **For sale-** The trees of all species for sale shall be felled by the owners in accordance with the felling cycle prescribed vide notification issued under section-4 of the Act.

(b) Permission for removal of trees for sale shall be accorded by various functionaries as per limit and extent prescribed under above referred Notification.

(c) Application of felling of trees and removal of forest produce shall be submitted to the Divisional Forest Officer concerned by the owners.

(d) The area from where the trees are intended to be sold by the owner shall be demarcated by the Revenue Officer not below the rank of Naib Tehsildar in the presence of Range Officer of the area concerned and nominee of the Agent. Provided that where Naib Tehsildar is not posted, the demarcation of the area shall be carried out by Field Kanungo.

(e) The silvicultural marking of the trees shall be done as per rules framed/instructions issued by the Chief Conservator of Forests, Himachal Pradesh from time to time. No clear felling of the areas shall be, allowed even for purpose of raising orchards.

(f) The Divisional Forest Officer shall issue permission for felling of trees and permit for collection or removal of forest produce.

(g) While issuing felling permission/permits, Divisional Forest Officer may impose such restrictions/conditions as he may consider necessary in the interest of forest conservancy and misuse of forest produce so extracted.

(h) The Divisional Forest Officer while issuing the permission for felling of trees may indicate the number and species of the plants to be planted as compensatory plantation as provided under rule 4(c).

(i) The provisions of H.P. Forest Produce (Regulation of Trade) Act, 1982 and the rules made there under shall apply as such for the sale of trees.

(3) (a) **Compensatory Plantations-** Any person(s) felling the trees either for domestic or agricultural use or for sale shall be required to plant at least 3 trees for one tree felled, In case, however, a fruit orchard is planted in such area, it shall be planted according to the norms laid down by the State Horticulture Department for complete stocking of the area. The success of such plans planted shall be the responsibility of the owners which shall be checked frequently by the staff of Forest/Horticulture Department.

(b) Divisional Forest Officer may require the owner to deposit such amount not exceeding Rs. 3 per plant (to be planted) for carrying out compensatory planting so that plants could be planted if the owner(s) fails to plant 3 plants for every tree felled within one year of felling.

(4) No tree shall be granted to such owner(s) from the Government forests at the right holders rate for the next 10 years who sell trees from their private lands.

(5) (a) The extraction of resin will be undertaken with the written permission of the Divisional Forest Officer concerned in accordance with the instructions issued by the Chief Conservator of Forests, Himachal Pradesh from time to time laying down the period of extraction, number of blazes, length, width and depth of blazes and other related matters.

(b) No resin so extracted shall be removed/exported by any person from the area under tapping without obtaining an export permit from the Divisional Forest Officer concerned as per rules framed.

(c) The provisions of Himachal Pradesh Resin & Resin Products (Regulation of Trade) Act, 1981 and rules made thereunder shall apply as such for the extraction of resin by owners.

Issue of Notice under-Section 8 and 9

5. (1) The notice under section 8 & 9 shall be issued by the Deputy Commissioner in the form given in Annexure-1. This notice shall be in the local language of the area and will be served through Gram Panchayats concerned.

(2) Any person aggrieved by an order contained in such a notice given under section 8 & 9 may serve a notice of his objection alongwith necessary evidence, to the Deputy Commissioner. Before passing final orders, the Deputy Commissioner shall consult the Divisional Forest Officer regarding technical aspects.

(3) Every order issued under section 8 & 9 shall be sent to the land owners through registered post. Copies of the order shall also be displayed at conspicuous places.

(4) The Deputy Commissioner while making an order on objections brought under section 9 shall be guided by the following:-

- i. Necessity of treatment of catchments area as a whole;
- ii. Potential damage to the adjoining lands as a result of soil erosion in the said area;
- iii. Effect (of soil erosion) on the sub soil water table.
- iv. Siltation in water reservoirs within or adjoining the area due to soil erosion;
- v. Need for safe guarding and protection of lines of communication against any danger due to degradation of areas;
- vi. Need for improvement in Forest conservancy environment and ecological status.

Measures to regulate control over works to be executed.

6. (1) Before issuing a notice/notification in respect of any land under section 9(1) and 9(2), an enquiry by an officer not below the rank of Assistant Conservator of Forests shall be held.

(2) The said officer shall visit the area and among other things shall study the following aspects:-

- i. The necessity of getting the works executed and fixing the time limit for the execution of such works;
- ii. The nature of damage being done to the adjoining property including habitation by the stream/Cho;
- iii. Necessity of regulating the flow of water by draining the streams to minimize the damage;
- iv. Desirability and feasibility of reclaiming the land in the stream/Cho bed;
- v. Desirability and feasibility of execution of other works and measures for such execution of works.

(3) The said Officer shall make proposals indicating the nature and extent of remedial measures.

(4) After completion of such an enquiry, the enquiry report alongwith recommendations of the Enquiry Officer shall be submitted to the Deputy

Commissioner of the area concerned through the concerned Conservator of Forests for appropriate orders.

Secretary (Forests) to the
Govt. of Himachal Pradesh.

ANNEXURE I

Office of Deputy Commissioner.....district, Himachal Pradesh.

Notice

Information or Warning.

Under sections 8 and 9 of the Himachal Pradesh Land Preservation Act, 1978, (Act No. 28 of 1978) the following area of village.....Tehsil..... is closed under section 4, 5 & 6 (delete which is not applicable) in accordance with Notification No.....dated..... (copy enclosed) and restrictions and restraints as specified in the aforesaid notification are imposed.

Description of Area,

Name of village.

Hadbast No.

Khasra No.

2. These restrictions shall remain in force from..... to.....

3. Therefore, under section 8 & 9 of the Himachal Pradesh Land Preservation Act, 1978 (Act 28 of 1978) this notice is being issued to every such person who has objection/claim against these restrictions/restraints which can be filed by him in writing or orally before..... (He shall also inform the mode and type of compensation acceptable to him).

The above mentioned area has been demarcated on the spot and its boundaries/location can be ascertained from village Sarpanch/Lambardar or other official. Necessary information may also be obtained from helqua Patwari as well.