



## The Himachal Pradesh Registration of Tourist Trade Act, 1988

Act 9 of 1988

**Keyword(s):**

**Black-list, Dealer, Hotel, Hotel-Keeper, Malpractice, Tourist Area, Tourist, Travel Agent**

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[Authoritative English text of the Himachal Pradesh Paryatan Vyasaya Registrikaran Ahdiniyam, 1988 (1988 ka Adhiniyam Sankhyank 9) passed in Hindi].

## THE HIMACHAL PRADESH REGISTRATION OF TOURIST TRADE ACT, 1988

[Act No. (9)<sup>2</sup> of 1988]<sup>1</sup>

### ARRANGEMENT OF SECTIONS

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1. Passed in Hindi by the H.P. Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 9-4-1988, P. 514 and P. 530.

2. "Act No. 9" Subs for "Act No. 6" vide notification No. LLR-D(6)3/87, dated 5-8-1988, published in R.H.P. Extra., dated 5-9-1980, P. 2155.

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(Received the assent of the Governor, Himachal Pradesh, on the 24th May, 1988 and was published in Hindi in R.H.P. Extra., dated the 26th May, 1988, pages 877-894 and in English in R.H.P.Extra., the dated 26th May, 1988 page 895-909.)

*An Act to provide facilities to the tourists and for registration of persons dealing with them and for matters connected therewith.*

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

## CHAPTER-I

### PRELIMINARY.

1. Short title, extent and commencement.—(1) This Act may be called the Himachal Pradesh Registration of Tourist Trade Act, 1988.

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

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

2. Exemptions.—(1) This Act shall not apply to a hotel, tourist rest house, dak bungalow, sarai, inn or any institution or premises managed or run by the Government or a local authority.

(2) The State Government may direct that all or any of the provisions of this Act shall not, subject to such conditions and terms as it may specify, apply generally—

- (i) to premises used for a public purpose of a charitable nature or to any class of premises used for such purposes ;
- (ii) to premises held by a public trust for a religious or charitable purpose and let out at a nominal rent; or
- (iii) to premises held by a public trust for a religious or charitable purpose and administered by a local authority.

(3) The State Government may, also by order, direct that all or any of the provisions of Chapter-III 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) "black-list" means a list maintained and exhibited for dealers, hotel-keepers, travel agents, guides and excursion agents who have been black-listed under the provisions of this Act;
- (b) "certificate of registration" means a certificate issued under this Act;
- (c) "dealer" means a person carrying on in a tourist area the business of selling any notified article, whether whole-sale or retail, and includes his agent or employee transacting business on his behalf;
- (d) "excursion agent" means a person engaged in or engaging himself in arranging excursions, tours or picnics for a tourist or tourists;
- (e) "Government" means the Government of Himachal Pradesh;
- (f) "guide" means a person who engages himself as a paid guide for tourists:

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 qualifications he persons who were working as guides, before the commencement of this Act, shall *ipso facto* be registered as such guides;

- (g) "hotel" means any premises or part of premises including a house-boat, restaurant, bar or a tent where lodging with or without board or any kind of eatables or beverages or other services are by way of business provided for a monetary consideration, and includes such premises as are given on rent during the season;];
- (h) "hotel-keeper" means any person who owns or operates a hotel as proprietor and includes a person managing or operating the affairs of a hotel on behalf of the proprietor;
- (i) "local authority" means the Deputy Commissioner, Municipal Corporation, Municipal Committee, Notified Area Committee, Panchayat and Public Trust in the respective jurisdiction;

- (j) "malpractice" includes cheating, touting, impersonation, obstruction in allowing free choice for shopping or stay or travel management; charging a price higher than that displayed on the label, or rent or remuneration higher than that fixed under this Act; failure to display price label on each article; failure to display the rent list; failure to give cash memos; willful failure to execute an order within the stipulated period and according to the terms agreed upon; and failure to provide accommodation to the tourists when available or providing accommodation during the season on daily/monthly rent to persons other than tourists.

*Explanation-I.*—For the purposes of this clause, "labelled price" (the price displayed on the label on notified article) shall be such reasonable price as may be fixed by the prescribed authority.

*Explanation-II.*—The expression "touting" means coercing for shopping, accommodation, transportation, sight-seeing or pestering for any particular premises, persons, establishment, dealer, manufacturer or any other service connected with tourism with the consideration of personal benefit;

- (k) "notified article" means any article notified in the Official Gazette for the purposes of this Act, and for different tourist areas, different articles may be notified;

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

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

- (n) "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;

- (o) "season" means the period from September 16 to June 30 and the rest of the period of the year will constitute "off season";

- (p) "specified accommodation" in relation to a hotel means accommodation (by whatever name called) other than the accommodation available in exclusive rooms, to be provided to persons staying in a hotel and which is of such a class as may be determined by the prescribed authority from time to time;

- (q) "tourist area" means any area notified by the Government in the Official Gazette to be a tourist area for the purposes of this Act;

- (r) "tourist" means a person or group of persons, including pilgrims, visiting any tourist area in the State of Himachal Pradesh from any part of India or outside India; and

- (s) "travel agent" means a person engaged in the business of making travel, camping, tour operating or other travel arrangements for tourists for a monetary consideration and includes a tourist guide and a shikar outfitter.

*Explanation.*—The expression "travel arrangements", includes—

- (a) arrangements for transportation;

- (b) arrangements for lodging with or without board; and

1. "entitled" substituted by "notified" vide Notification No. LLR-D(6)3/87-Legis., dated 5-8-1988, published in R.H.P. Extra., dated 5-9-1988, P. 2156].

- (c) rendering other services, such as assistance for providing convenience for game and sports or receipt or despatch of personal belongings of a tourists or taking photograph (s) of a tourist.

## CHAPTER-II

### REGISTRATION OF DEALERS

4. **Registration of dealers.**—Every person intending to carry on business of a dealer under this Act shall, before he commences such business, apply for registration to the prescribed authority in the prescribed manner :

Provided that nothing in this sub-section shall apply to the sale of notified articles in fairs and temporary markets organised during festivals.

(2) Notwithstanding anything contained in sub-section (1) any person already carrying on business of selling any notified article in a tourist area on the date, on which such article is notified under clause (k) of section 3, shall apply for registration under this Act within three months from the aforesaid date.

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

5. **Certificate of registration of a dealer.**—The prescribed authority shall, unless registration is refused under section 6, direct that the name and the particulars of the dealer be entered in the register maintained for the purpose and shall issue a certificate to the dealer in the prescribed form within a period of three months from the date of receipt of the application.

6. **Refusal to register a dealer.**—The prescribed authority may refuse to register a dealer under this Act on any of the following grounds, namely:—

- (a) if he is convicted of an 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 of an offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food and drugs or corruption; and two years have not elapsed since the termination of the sentence imposed upon him;
- (b) if he has been declared an insolvent by a court of competent jurisdiction and has not been discharged;
- (c) if his name has been removed from the register on the ground mentioned in clause (c) or clause (d) of sub-section (1) of section 7 and three months have not elapsed since the date of such removal;
- (d) if in the opinion of the prescribed authority there is 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 afforded a reasonable opportunity of being heard.

7. Removal of the name of a dealer from the register.—(1) The prescribed authority may, after affording a reasonable opportunity of being heard, by an order in writing, remove the name of a dealer from the register and cancel his certificate on any of the following grounds, namely:—

- (a) if he ceases to be a dealer;
- (b) if he is convicted of an offence under Chapters XIV and XVI of the Indian Penal Code, 1860 (45 of 1860) or under the provisions of this Act or of an offence punishable under the law providing for prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption;
- (c) if he is declared an insolvent by a court of competent jurisdiction and has not been discharged;
- (d) if any complaint of malpractice is received and proved against him; and
- (e) if he is black-listed by the prescribed authority.

(2) Any dealer whose name is removed from the register under sub-section (1) shall forthwith cease to be a dealer.

8. Black-listing of dealers.—(1) The prescribed authority may on proof of complaint of malpractice or for any other offence committed under this Act for reasons to be recorded, black-list a dealer, after taking into consideration the nature of malpractice or gravity of the offence, for a period which may extend to six months.

(2) The particulars of a dealer black-listed shall be exhibited at conspicuous places in all tourist areas and notified to all travel, trade and other concerned organisations, foreign missions in India and Indian missions abroad and other important concerned channels after the order black-listing him has become final.

(3) The action taken under sub-section (1) shall not protect such dealer from being prosecuted under the provisions of this Act.

(4) If the prescribed authority is satisfied that there are sufficient grounds for removal of a dealer from the black-list, it may after recording the reasons, order his removal from the list and issue [afresh]<sup>1</sup> certificate of registration on payment of prescribed fee and notify the same for the information of all concerned.

9. Notice of removal and black-listing of a dealer.—Before removing the name of a dealer from the register under section 7 or black-listing him under section 8, the prescribed authority shall give notice to the dealer of the ground or grounds on which it is proposed to take action and hold an inquiry in the presence of the dealer giving him a reasonable opportunity of showing cause against it.

### CHAPTER-III

#### REGISTRATION OF HOTELS

10. Registration of hotels.—(1) Every person intending to operate a hotel in a tourist area shall, before operating the hotel, apply for registration to the prescribed authority in the prescribed manner.

1. "a-fresh" Subs. by "afresh" vide Notification No. LLR-D (6) 3/86-Legis, dated 5-8-1988  
Published in RHP Extra, Dated 5-9-88 P. 2156

(2) Notwithstanding anything contained in sub-section (1), any person already operating a hotel in a tourist area on the date a notification under clause (g) of section 3 is issued shall apply for registration within three months from the aforesaid date.

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

**11. Certificate of registration of a hotel.**—The prescribed authority shall, unless registration is refused under section 12, direct the entry of the name and particulars of the hotel and the hotel-keeper to be entered in the register maintained for the purpose, and shall issue a certificate of registration to the hotel-keeper in the prescribed form.

**12. Refusal to [register]<sup>1</sup> a hotel.**—The prescribed authority may refuse registration of a hotel under this Act on any of the following grounds, namely:—

- (a) if the hotel-keeper is convicted of an 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 of an 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 hotel-keeper has been declared an insolvent by a court of competent jurisdiction and has not been discharged;
- (c) if the name of the hotel-keeper has been removed from the register on the grounds mentioned in clauses (c), (d), (e) or (g) of section 13 and three months have not elapsed since the date of such removal;
- (d) if the premises do not conform to the prescribed standards;
- (e) if the hotel-keeper does not hold a licence or certificate required to be held by him under any law for the time being in force; and
- (f) 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.

**13. Removal of the name of a hotel from the register.**—The prescribed authority may, by an order in writing, remove the name of a hotel from the register and cancel its certificate of registration on any of the following grounds, namely:—

- (a) if the hotel-keeper ceases to operate the hotel in the tourist area for which he is registered;

1. "register" Sub-register a" vide notification No. LLR-D(6)/88-Legis., dated 5-8-1988, published in R.P.H. Extra., dated 5-9-1988, P. 2156.



- (b) if the hotel-keeper is convicted of an 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 of an 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 hotel-keeper is declared an insolvent by a court of competent jurisdiction and has not been discharged;
- (d) if the hotel-keeper fails to comply with any of the provisions of this Act or rules framed thereunder;
- (e) if the hotel-keeper fails to remove a lodger or wilfully keeps the lodger in a hotel, who becomes a nuisance for the inmates in an adjoining building;
- (f) if any complaint of malpractice is received and proved against a hotel keeper;
- (g) if the hotel is black-listed under section 14; and
- (h) if the hotel-keeper provides accommodation in the hotel to local residents of the area in preference to the tourists visiting the area.

14. **Black-listing of hotels.**—(1) The prescribed authority may, on proof of complaint of malpractice or for any other offence committed under this Act, for reasons to be recorded, black-list a hotel, after taking into consideration the nature of malpractice or gravity of the offence, for a period which may extend to six months.

(2) The particulars of a black-listed hotel shall be exhibited at conspicuous places in all tourist areas and notified to all travel, trade and other concerned organisations, foreign missions in India and Indian missions abroad.

(3) The action taken under sub-section (1) shall not protect such hotel-keepers from being prosecuted under the provisions of this Act.

(4) If the prescribed authority is satisfied that there are sufficient grounds for removal of a hotel from the black-list, it may, after recording the reasons, order its removal from such list and issue a fresh certificate of registration on payment of the prescribed fee and notify the same for the information of all concerned.

15. **Notice of removal and black-listing of a hotel.**—Before removing the name of a hotel from the register under section 13 or black-listing it under section 14, the prescribed authority shall give notice to the hotel-keeper of the ground or grounds on which it is proposed to take action and hold an enquiry in the presence of the hotel-keeper giving him a reasonable opportunity of showing cause against it.

16. **Fixation of rates.**—The prescribed authority may, in consultation with the committee to be constituted in the prescribed manner,—

- (a) fix the reasonable maximum rates and service-charges, if any, commensurate with the standard of the hotel and quality of food, accommodation and service, which may be charged by the hotel-keeper during "season" and "off-season" periods for board or lodge or for both from persons staying therein or from other customers:

Provided that the rates for lodging shall be fixed with reference to each room or specified accommodation and the number of the lodgers to be accommodated;

- (b) fix the percentage of accommodation of daily and monthly lodgers in a hotel;
- (c) fix the number of lodgers to be accommodated in each room or in the specified accommodation in the hotel;
- (d) fix fair rates separately for daily and monthly lodgers.

*Explanation.*—For the purposes of this Chapter, a lodger who agrees to reserve accommodation in a hotel for a period of less than a month shall be deemed to be a daily lodger.

17. **Revision of fair rates.**—The prescribed authority may, from time to time, revise the fair rates (the percentage of accommodation or the number of lodgers) fixed under section 16.

18. **Fixation of rates pending such fixation by the prescribed authority.**—Till such time the prescribed authority has not fixed fair rates, the percentage of accommodation and the number of lodgers, as required under section 16, the hotel-keeper shall fix and notify these to the prescribed authority by the 31st March each year and separate rates will be fixed for “season” and “off-season” periods.

19. **Display of information.**—Where under section 16 or section 17 the prescribed authority has fixed or revised the fair rates, the percentage of accommodation or the number of lodgers, or even in case where the prescribed authority has not fixed rates, etc., the hotel-keeper shall display a notice of the fair rates, the percentage of accommodation, the number of lodgers at a conspicuous place in the hotel and an agent of the hotel-keeper shall also keep a copy certified by the prescribed authority of such information on his person.

20. **Charges recoverable in excess of fair rates.**—(1) Notwithstanding any agreement to the contrary, no hotel-keeper shall charge any amount in excess of the fair rates fixed.

(2) Any sum paid by the lodger in excess of the fair rate shall be recoverable by him at any time within one year from the date of payment from the hotel-keeper and may, without prejudice to any other remedy for recovery, be adjustable by such lodger for an amount payable by him to the hotel.

21. **No ejectment to be made if fair rate paid.**—No hotel-keeper shall evict or refuse board or any other service to a lodger so long as he pays or is ready and willing to pay the rate fixed and observes and implements the other conditions of his agreement in so far as they are consistent with the provisions of this Act:

Provided that where, under section 16 or section 17, the prescribed authority has fixed or revised the percentage of accommodation for daily and monthly lodgers respectively, the hotel-keeper may refuse accommodation to any daily or monthly lodger if the accommodation in respect of such class of lodgers is fully occupied.

22. When hotel-keeper may recover possession.—Notwithstanding anything contained in this Act, a hotel-keeper shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the prescribed authority to the effect that,—

- (a) the lodger has been guilty of conduct which constitutes a nuisance or an annoyance to any adjoining or neighbouring lodgers; or
- (b) the accommodation is reasonably and *bonafide* required by the owner of the hotel either for his own occupation or for any other cause which may be deemed satisfactory by the prescribed authority; or
- (c) the lodger staying on monthly basis is habitually irregular (or has been a defaulter for three months) in making payment of the charges for board, lodging or other service provided in the hotel; or
- (d) the lodger has failed to vacate the accommodation on termination of the period of the agreement in respect thereof:

Provided that before issuing a certificate under this clause, the prescribed authority would take into consideration the vacancies, if any, in the accommodation for daily and monthly lodgers at that time; or

- (e) the lodger has done any act which is inconsistent with the purpose for which the accommodation is provided to him or which is likely to affect adversely and substantially the hotel-keeper's interest therein:

Provided that before issuing the certificate a reasonable opportunity will be given to the lodger to present his case.

23. Hotel-keeper to present detailed bills.—Every hotel-keeper shall present detailed bills to the person residing in the hotel and other customers and shall give receipt in acknowledgement of all payments.

24. When the hotel-keeper may honour confirmation of bookings at particular rate.—If a hotel-keeper confirms a booking at a particular rate, it will, 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 same rate.

25. Inspection with or without notice.—The prescribed authority, or any other officer authorised by him to inspect hotel premises from time to time, will be allowed free access with or without prior notice.

#### CHAPTER-IV

#### TRAVEL AGENTS

26. Registration of travel agents, excursion agent or guide.—(1) No person shall carry on the business of a travel agent, excursion agent or guide in a tourist area, unless he is registered in accordance with the provisions of this Act.

1. " " added, vide Not. No. LLR-D(6)3/87, dated 5-8-1988 published in R.H.P. Extra., dated 5-9-1988, P. 2156).

(2) Every person intending to act as a travel agent, excursion agent or guide in a tourist area 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 acting as a travel agent in a tourist area on the date a notification under clause (g) of section 3 is issued shall apply for registration within three months from the aforesaid date.

(4) Every application made under this section shall be disposed of within a period of three months from the date of receipt of the application and after its disposal, the applicant shall be intimated about its acceptance for registration.

**27. Certificate of registration of travel agents etc.**—The prescribed authority shall, unless registration is refused under section 28, direct the entry of the name and particulars of the travel agent, excursion agent or guide to be made in the register maintained for the purpose and shall issue a certificate of registration to the travel agent or excursion agent or guide, as the case may be, in the prescribed form.

**28. Refusal to register a travel agent, excursion agent or guide.**—The prescribed authority may refuse the registration of a travel agent, excursion agent or guide under this Act on any of the following grounds, namely:—

- (a) if he does not possess any of the prescribed qualifications;
- (b) if he has been convicted of an 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 of an 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 he has been declared an insolvent by a court of competent jurisdiction and has not been discharged;
- (d) if his name has been removed from the register on the grounds mentioned in clauses (c), (d) or (e) of section 29 of this Act and 3 months have not elapsed since the date of such removal; and
- (e) if in the opinion of the prescribed authority there is 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 afforded a reasonable opportunity of being heard.

**29. Removal of the name of travel agents etc. from the register.**—The prescribed authority may, by an order in writing, remove the name of a travel agent, excursion agent or guide, as the case may be, from the register and cancel his certificate of registration on any of the following grounds, namely:—

- (a) if he ceases to act as a travel agent in a tourist area;
- (b) if he is convicted of an 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 of an 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 he is declared as an insolvent by a court of competent jurisdiction and has not been discharged;
- (d) if any complaint of malpractice is received and proved against him; and
- (e) if he is black-listed by the prescribed authority.

**30. Black-listing of travel agents.**—(1) The prescribed authority may on proof of any complaint of malpractice or for any other offence committed under this Act, for reasons to be recorded, black-list a travel agent after taking into consideration the nature of the malpractice or the gravity of offence, for such period as the prescribed authority may deem fit.

(2) The particulars of a travel agent black-listed shall be exhibited at conspicuous places and notified to all travel, trade and other concerned organisations, foreign missions in India and Indian missions abroad.

(3) The action taken under sub-section (1) shall not protect such travel agent from being prosecuted under the provisions of this Act.

(4) If the prescribed authority is satisfied that there are sufficient grounds for removal of a travel agent from the black-list it may, after recording the reasons, order his removal from such list and issue a fresh certificate of registration on payment of prescribed fee and notify the same for the information of all concerned.

**31. Notice of removal and black-listing of travel agents.**—Before removing the name of a travel agent from the register under section 29 or black-listing him under section 30, the prescribed authority shall give notice to the travel agent of the ground or grounds on which it is proposed to take action and hold an inquiry in the presence of that person, giving him a reasonable opportunity of showing cause against it.

**32. Fixation of rates.**—The prescribed authority may, by notification in the Official Gazette, fix fair rates which may be charged by a travel agent for the services rendered by him to a person engaging him as such.

**33. Revision of fair rates.**—The prescribed authority may, from time to time, revise the fair rates fixed under section 32.

**34. When travel agent fixes and notifies the rates.**—Till such time the prescribed authority has not fixed fair rates, the travel agent shall fix and notify these to the prescribed authority by 31st day of March, each year.

**35. Display of information.**—Where under section 32 or section 33, the prescribed authority has fixed or revised the fair rates or even in case the prescribed authority has not fixed rates, the travel agent shall display a notice, at a conspicuous place in his office, of the fair rates and such information as may be prescribed.

**36. Charges paid in excess of fair rates.**—(1) Notwithstanding any agreement to the contrary, no travel agent shall charge any amount in excess of the rates fixed,

(2) Any sum paid by a person in excess of the fair rate shall be recoverable by him at any time within one year from the date of payment from the travel agent and may, without prejudice to any other remedy for recovery, be adjustable by such person for any amount payable by him to the travel agent.

37. **No refusal to render services.**—No travel agent shall, without a reasonable excuse, refuse to make available his services to any person so long as he pays and is ready and willing to pay the rates fixed.

38. **Travel agents to present detailed bills.**—Every travel agent shall present detailed bills to the person availing his services and shall give receipts in acknowledgement of all payments received.

39. **Travel agents not to demand tips, etc.**—Travel agent is not to demand tips, gratuity, presents or commission, other than as provided under this Act, from any person engaging him or from any hotel-keeper in whose hotel such person resides or intends to reside.

## CHAPTER-V

### APPEAL AND REVISION

40. **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 persons as the prescribed authority may appoint.

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

41. **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 the appellate authority, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed by the appellate authority and pass such order thereon as it may deem fit and such order shall be final :

Provided that no such record shall be called for after the expiry of three months from the date of communication of the order:

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-VI

### OFFENCES AND PENALTIES

**42. Penalty for default in registration.**—Any person carrying on business of a dealer, hotel-keeper or travel agent without a proper registration under this Act or in violation of any of the provisions of this Act shall be punishable with imprisonment for a term not exceeding 6 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 one hundred rupees per day and maximum of one thousand rupees per day depending upon the classification of the hotel, or the travel agency, as the case may be, made in the manner prescribed by the Hotel and Restaurant Approval and Classification Committee constituted by the State Government from time to time.

*Explanation.*—A person who has made an application within the prescribed period and which is pending disposal shall not be a defaulter for the purposes of this section.

**43. Penalty for false statement.**—If any person required to make a statement under this Act wilfully makes a false statement or suppresses a material fact with an 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 one thousand rupees or with both.

**44. Certificate not to be assigned.**—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.

**45. 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 to any of the following persons, namely:—

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

(b) any *bona fide* customer.

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

**46. Penalty for malpractice.**—Any hotel-keeper or travel agent who commits a malpractice in a tourist area 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.

47. **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 officer authorised 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.

48. **Power of the court to try cases summarily.**—All offences under this Act may be tried in a summary way by a Chief Judicial Magistrate or by any other Magistrate of the 1st Class specially authorised 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.

49. **Institution of proceedings.**—No prosecution shall be instituted against any person for an offence under this Act, except on a complaint made by the prescribed authority or the officer authorised by it in this behalf.

50. **Power of prescribed authority to summon and enforce attendance of witnesses 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:—

- (i) summoning and enforcing attendance of the complainant or the person against whom complaint is made under this Act and witnesses required in connection therewith;
- (ii) compelling the production of any document; and
- (iii) examining witnesses on oath;

and may summon and examine *suo moto* any person whose evidence appears to be material.

51. **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 proceeding 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-VII

## MISCELLANEOUS

**52. Notification of changes.**—(1) Whenever a business 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 registers under this Act, such person shall, within one month 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.

**53. 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 a prescribed manner of the order of cancellation, return it to the prescribed authority.

**54. 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 that behalf by the person holding such certificate and on payment of the prescribed fee, issue a duplicate certificate.

**55. Renewal of certificate.**—Every certificate of registration issued under this Act shall expire after a period of three years from the date on which it is issued or renewed, and on an application made to it and on payment of such fee as may be prescribed, the prescribed authority, unless—

- (i) the certificate holder has ceased to be in business; or
- (ii) the certificate holder has incurred any disqualification for being registered under this Act; or
- (iii) the certificate holder's name has been removed from the register and the period for which his name has been removed has not expired; or
- (iv) the certificate holder has been black-listed and the order black-listing him has not been revoked; shall renew the certificate of registration for a further period of three years at a time.

**56. Certificate of registration to be kept exhibited.**—The certificate of registration shall be kept by the person holding it in a conspicuous place at the principal place of his business and if he has no principal place of business or acts otherwise than in any particular place, he shall keep it on his person.

**57. Publication of list of persons removed from the register.**—The prescribed authority shall, from time to time, publish in the Official Gazette and in such other manner as it deems fit, the names and addresses

of the persons and of the hotels whose names have been removed from the register and have been refused registration under this Act.

**58. Power to inspect.**—The prescribed authority or any other person authorised by it in this behalf may, within the tourist area, inspect at all reasonable times, the premises in which a travel agent or a dealer carries on his business or any premises where a hotel is operated and require such dealer, travel agent or hotel-keeper to produce any document kept in pursuance of this Act or the rules made thereunder for inspection.

**59. 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 purpose of sections 193 and 228 of the Indian Penal Code, 1860 (45 of 1860).

**60. Indemnity.**—No suit, prosecution or other legal proceeding 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.

**61. Power of the Government to apply the 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 a tourist area of outdoor photography or of letting or plying for hire house-boats, dongas, bathing-boats, shikaras, automobile vehicles, tangas, dandis, pithus, ponies or to such other persons as may be specified in the notification and the prescribed authority may fix the rates to be charged for the services to be rendered.

**62. 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 hotel-keepers, or travel agents, for conduct of business;
- (b) the form of application for registration and of certificate of registration;
- (c) the fee for registration;
- (d) the manner of giving notices under this Act;
- (e) manner of publication of the names and addresses of the persons removed from the register or to whom registration has been refused;
- (f) classification of hotels and travel agents;
- (g) qualifications for registration as travel agents and guides;
- (h) manner of publication of the names and addresses of the persons and the hotels removed from the register or to whom registration has been refused;
- (i) the manner in which a dealer, a hotel-keeper, or a travel agent shall be black-listed and the publication of names and addresses of such a dealer, hotel-keeper or a travel agent;
- (j) the place where the prescribed authority shall hold inquiry under this Act; and
- (k) all matters expressly required to be prescribed under this Act.

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

63. Repeal and savings.—The Himachal Pradesh Registration of Hotels and Travel Agents Act, 1970 (22 of 1970) 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.

[Authoritative English text of the Himachal Pradesh Shiyar Sampatti Adhigrahan Adhiniyam, 1988 (1988 ka Adhiniyam Sankhyank 1) passed in Hindi]

## THE HIMACHAL PRADESH REQUISITION OF IMMOVABLE PROPERTY ACT, 1987

(Act No. 1 of 1988)<sup>1</sup>

### ARRANGEMENT OF SECTIONS

#### Sections :

1. Short title, extent and commencement.
2. Definitions.
3. Power to requisition immovable property.
4. Power to take possession of requisitioned property.
5. Rights over requisitioned property.
6. Release from requisition.
7. Application for release from requisition.
8. Further application for release from requisition.
9. Principles and methods of determining compensation.
10. Payment of compensation.
11. Appeal from order of requisition.
12. Appeal from order of competent authority rejecting application for release from requisition.
13. Appeal from award in respect of compensation.
14. Competent authority and arbitrator to have certain powers of civil courts.
15. Power to obtain information.
16. Power to enter and inspect.
17. Service of notice and order.
18. Easement not to be disturbed.
19. Delegation of powers.
20. Protection of action taken in good faith.
21. Bar of jurisdiction of civil courts.
22. Penalty for offences.
23. Certain persons to be public servants.
24. Power to make rules.
25. Validation of certain requisitions of immovable properties.
26. Power to recover rent or damages in respect of requisitioned property as arrears of land revenue.
27. Repeal and savings.

1. Passed in Hindi by the H.P. Vidhan Sabha. For Statement or Objects and Reasons see. R. P. Extra., dated —at page—

(Issued and published in Hindi in R.H.P. Extra., dated 29-7-1995 p. 3179-80).

*Shimla-2, the 29th July, 1995*

No. EXN-F(10)2/83-II.—In exercise of the powers conferred by sub-section (1) of section 22 of the Himachal Pradesh General Sales Tax Act, 1968 (Act No. 24 of 1968), section 14-B of the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (Act No. 15 of 1955) and sub-section (1) of section 5 of the Himachal Pradesh Taxation (on Certain Goods Carried by Road) Act, 1991 (Act No. 10 of 1991), the Governor, Himachal Pradesh is pleased to order the establishment of check posts/barriers at the following places with immediate effect:—

<i>Sl. No.</i>	<i>Name of barrier and District</i>
1.	Polion (on Una-Jejon Road) District Una.
2.	Dulehar (on Una-Garhshankar Road) District Una.
3.	Bathu (on Una-Santokhgarh, Tahliwal, Nurpur Badi Road).
4.	Basdehra (on Kalshera-Besdehra Road) District Una.
5.	Beetan (On Beetan-Singha Road) District Una.

(R. H. P. Extra., dated 29-7-1995, p. 3180).

(Issued and published in Hindi in R. H. P. Extra., dated 18-10-1995, p. 4165).

*Shimla-2, the 11th October, 1995*

No. EXN-F(10)2/83.—In exercise of the powers conferred by sub-section (1) of section 22 of the Himachal Pradesh General Sales Tax Act, 1968 (Act No. 24 of 1968), section 14-B of the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (Act No. 15 of 1955) and sub-section (1) of section 5 of the Himachal Pradesh Taxation (on Certain Goods Carried by Road) Act, 1991 (Act No. 10 of 1991), the Governor, Himachal Pradesh is pleased to order the establishment of barrier at Dhangra Majra Road in Kangra district.

R.H.P. Extra., dated 18-10-1995, p. 4166).

## THE HIMACHAL PRADESH REGISTRATION OF TOURIST TRADE (AMENDMENT) ACT, 1995

(Act No. 10 of 1995)

### ARRANGEMENT OF SECTIONS

*Sections :*

1. Short title.
2. Amendment of section 3.
3. Amendment of section 10.
4. Amendment of section 12.
5. Amendment of section 13.
6. Amendment of section 16.
7. Amendment of section 42.
8. Omission of section 55.

(Received the assent of the Governor, Himachal Pradesh on the 29th July, 1995 and was published in Hindi and English in R.H.P. Extra., dated 2-8-1995, p. 3205-3206 and 3207-3208).

*An Act to amend the Himachal Pradesh Registration of Tourist Trade Act, 1988 (Act No. 9 of 1988).*

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-sixth Year of the Republic of India, as follows:—

1. Short title.—This Act may be called the Himachal Pradesh Registration of Tourist Trade (Amendment) Act, 1995.

2. Amendment of section 3.—In section 3 of the Himachal Pradesh Registration of Tourist Trade Act, 1988 (9 of 1988) (hereinafter called the principal Act),—

(i) in clause (j), the words “or providing accommodation during the season on daily/monthly rent to persons other than tourists” shall be omitted.

(ii) for clause (a), the following shall be substituted, namely:—

“(a) “season” means the period from 15th April to 30th June; and from 15th September to 15th January; and the rest of the period will constitute “off season”; and

(iii) in clause (r), the words “from any part of India or outside India” shall be omitted.

3. Amendment of section 10.—In section 10 of the principal Act, the following sub-section (4) shall be added, namely:—

“(4) No person shall operate a hotel in a tourist area unless it is registered in accordance with the provisions of this Act.”

7. Amendment of section 12.—In section 12, after clause (f) of the principal Act, the following clause (g) shall be added, namely:—

“(g) if the hotel-keeper fails to produce the proof that the structure of the hotel has been built up 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 of the Himachal Pradesh Panchayati Raj Act, 1994 (4 of 1994), or of the Himachal Pradesh Municipal Act, 1994 (13 of 1994), or of the Himachal Pradesh Municipal Corporation Act, 1994 (12 of 1994), as in force in the area.”

5. Amendment of section 13.—In section 13 of the principal Act, for clause (h), the following clause shall be substituted, namely:—

“(h) if the hotel-keeper makes structural changes in the hotel without the approval of the Development Authority constituted under the Himachal Pradesh Town and Country Planning Act, 1977 (12 of 1977) of any other local authority concerned,”

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of objects and Reasons see R.H.P. Extra., dated 7-4-1995, p. 1569 and 1573.

6. Amendment of section 16.—In section 16 of the principal Act, in clause (a), for the words “board or lodge or for both from persons staying therein or from other customers”, the word “lodge” shall be substituted.

7. Amendment of section 42.—In section 42 of the principal Act, the Explanation shall be deleted.

8. Omission of section 55.—Section 55 of the principal Act shall be omitted.

## NOTIFICATIONS AND RULES

Under

### THE HIMACHAL PRADESH REGISTRATION OF TOURIST TRADE ACT, 1988

#### ENFORCEMENT OF THE PROVISIONS OF THE ACT

(Issued and published in Hindi in R.H.P. Extra., dated 4-10-1995, p. 3965).

#### TOURIST AND CIVIL AVIATION DEPARTMENT

#### NOTIFICATION

*Shimla-2, the 27th September, 1995*

No. 5-3/86 TSM(Sectt.)-I.—In exercise of the powers conferred by sub-section (3) of section 1 of the Himachal Pradesh Registration of Tourist Trade Act, 1988 (Act No. 9 of 1988), the Governor, Himachal Pradesh is pleased to appoint the 4th day of October, 1995 as the date on which the Himachal Pradesh Registration of Tourist Trade Act, 1988 shall come into force.

(R.H.P. Extra., dated 4-10-1995, p. 3966).

### THE HIMACHAL PRADESH REGISTRATION OF TOURISM TRADE RULES, 1995

(Issued and published in Hindi in R.H.P. Extra., dated 4-10-1995, p. 3967-3989).

*Shimla-2, the 26th August, 1995*

No. 5-3/86-TSMC (Sectt)-1.—In exercise of the powers conferred by section 62 of the Himachal Pradesh Registration of Tourism Trade Act, 1988 (Act No. 9 of 1988), the Governor of Himachal Pradesh is pleased to make the following rules, the same having been previously published in the