

**THE HIMACHAL PRADESH PROHIBITION OF SMOKING AND
NON-SMOKERS HEALTH PROTECTION ACT, 1997**

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**THE HIMACHAL PRADESH PROHIBITION OF SMOKING AND
NON-SMOKERS HEALTH PROTECTION ACT, 1997**

(Act No. 17 of 1997)¹

(Received the assent of the Governor on 12th May, 1997 and was published in Hindi and English in R.H.P. Extra., dated 13-5-1997, p. 1741-1744 and 1745-1747.)

An Act to provide for prohibiting of smoking in places of public work or use and in public service vehicles in the State of Himachal

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 9.4.1997, pages 1229 and 1233.

Pradesh and to make provision for other matters connected therewith.

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

1. Short title, extent and commencement.- This Act may be called the Himachal Pradesh Prohibition of Smoking and Non-Smokers Health Protection Act, 1997.

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

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

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions.- In this Act, unless the context otherwise require,-

(a) "advertisement" means and includes any notice, circular, wall paper, pamphlet, display on hardings, or any visible representation made by means of any light, sound, smoke, gas or any other means which has the affectt on promoting smoking and the expression 'advertise' shall be construed accordingly;

(b) "authorised officer" means a person authorised under section 4 ;

(c) "State" means the State of Himachal Pradesh ;

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

(e) "place of public work or use" means a place declared as such under section 3 and includes auditoria, hospital buildings, health institutions, amusement centres, public offices, court buildings, educational institutions, libraries, but does not include any open place ;

(f) "public service vehicle" means a vehicle as defined under clause (35) of section 2 of Motor Vehicles Act, 1988 (59 of 1988) ; and

(g) "smoking" means smoking of tobacco in any form whether in the form of cigarette, cigar, beedies or otherwise with the aid of a pipe, wrapper or any other instruments.

3. Declaration of non-smoking places of public work or use.- As soon as may be after the commencement of this Act and thereafter from time to time, the Government may, by notification in the Official Gazette, declare any place of public work or use in the State to be a non-smoking place for the purpose of this Act.

4. Power of Government to authorise officers to act under this Act.- (1) The Government may, by notification in the Official Gazette, authorise one or more persons who shall be competent to act under this Act.

(2) Every person authorised under sub-section (1) shall be deemed to be a "public servant" within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

5. Prohibition of smoking in places of public work or use.- No person shall smoke in any place of public work or use.

6. Prohibition of smoking in public service vehicles.- Without prejudice to the provisions of the motor Vehicles Act, 1988 (59 of 1988), no person shall smoke in a public service vehicle.

7. Prohibition on advertisement of cigarettes etc.- Notwithstanding anything contained in any other law for the time being in force, no person shall advertise in any place and any public service vehicle which may promote smoking, or the sale of cigarettes, beedies etc.

8. Prohibition of sale and distribution or storage for sale of cigarettes, etc. in the place of public work or use.- No person shall, himself or by any person on his behalf, sell or distribute or store for sale of cigarettes or beedies or any other smoking substances within the place of public work or use.

9. Display and exhibition of board.- The owner or manager or incharge of affairs of every place of public work or use shall display and exhibit, a board at a conspicuous place or places in and outside the premises visited or used by general public prominently stating that the place is a "No Smoking Zone" and that "Smoking is an offence".

10. Penalties.- Any person, who contravenes the provisions of-

- (i) sections 5, 6 or 9 shall be punishable with fine which may extend to one hundred rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of two hundred rupees, but which may extend to five hundred rupees ;
- (ii) section 7 or 8 shall be punishable with fine which may extend to five hundred rupees and in case of second or subsequent offence, shall be punishable with imprisonment which may extend to three months or with a minimum fine of five hundred rupees, but which may extend to one thousand rupees or with both.

11. Ejection of violators of this Act from the place of public work or use.- Any authorised officer or any police officer, not below the rank of Sub-Inspector, may eject any person from the place of public work or use who contravenes the provisions of this Act.

12. Court competent to try offences under this Act and take cognizance of offences.- (1) No court other than the court of a Judicial Magistrate shall take cognizance of , and try an offence under this Act.

(2) No court shall take cognizance of any offence under this Act except on a complaint in writing of an authorised officer with respect to offences under sections 5, 6 and 9 and on a report in writing of a police officer, not below the rank of sub-Inspector, with respect to the offences under sections 7 and 8.

13. Certain offences to be cognizable and bailable.- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), offences under sections 7 and 8 shall be cognizable and bailable.

14. All offences under the Act to be tried summarily.- All offences under this Act shall be tried summarily in the manner provided for summary trial under the Code of Criminal Procedure, 1973. (2 of 1974).

15. Power to delegate.- The Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified therein.

16. Composition of offences.- The Government or any person authorised by it by general or special order in this behalf, may either before or after the institution of the proceedings compound any offences made punishable by or under this Act.

17. Repeal and savings.- (1) The Himachal Pradesh Prohibition of Smoking (Show Houses) Act, 1968 (4 of 1969) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

NOTIFICATIONS

Under

THE HIMACHAL PRADESH PROHIBITION OF SMOKING AND NON-SMOKERS HEALTH PROTECTION ACT, 1997

ENFORCEMENT OF THE ACT

[Issued and published in Hindi in R.H.P. Extra, dated 16-6-1997, p.2279].

HEALTH AND FAMILY WELFARE DEPARTMENT

NOTIFICATIONS

Shimla-2, the 12th June, 1997

No. HFW-B(A)5-I/97.- In exercise of the powers conferred by sub-section (3) of section 1 of the Himachal Pradesh Prohibition of Smoking

and Non-Smokers Health Protection Act, 1997 (17 of 1997) the Governor, Himachal Pradesh, is pleased to appoint the 16th June, 1997 as the date from which the aforesaid Act shall come into force in the State of Himachal Pradesh.

(R.H.P. Extra, dated 16-6-97, p. 2280).

[Issued and published in Hindi in R.H.P.Extra, dated 18.7.97, p. 2723-2724].

DECLARATION OF NON-SMOKING PLACES

Shimla-2, the 4th July, 1997

No. HFW-B(A)5-1/97.- In exercise of the powers conferred by Section 3 of the Himachal Pradesh Prohibition of Smoking and Non-Smokers Health Protection Act, 1997 (17 of 1997), the Governor, Himachal Pradesh, is pleased to declare the following places of public work or use in the State to be non-smoking places for the purpose of this Act :-

1. Hospitals buildings ;
2. Health Institutions;
3. Public Offices ;
4. Court Buildings ;
5. Educational Institutions ;
6. Libraries; and
7. Cinema Halls.

Extra., dated 18.7.97, p. 2724).

(R.H.P.

Shimla-2, the 21st August, 1998

No. HFW-B(A)5-1/97.- In exercise of the powers conferred by section 3 of the Himachal Pradesh Prohibition of Smoking and Non-Smokers Health Protection Act, 1997 (17 of 1997), the Governor, Himachal Pradesh is pleased to declare the built up places of Bus Stands as a place of public work or use in the State to be Non-Smoking places for the purpose of this Act.

(R.H.P. Extra., dated 7.9.1998, p. 3326).

(Issued and published in Hindi in R.H.P. Extra., dated 23.3.2002, P. 4538)

Shimla-2, the 16th January, 2002.

NO. HFW-B(A)5-1/97-II .- In exercise of the powers conferred by section 3 of the Himachal Pradesh Prohibition of Smoking and Non-smokers Health Protection Act, 1997 (Act 17 of 1997), the Governor, Himachal Pradesh, is pleased to declare public conveyances, including Railways, Keeping in view, the judgement of the Hon'ble Supreme Court of India in

Writ Petition (Civil) No. 316 of 1999 titled as "Murli S. Deora V/s Union of India and others" decided on November 2, 2001] while operating in the State of Himachal Pradesh, to the Non Smoking places, for the purpose of this Act.

(R.H.P.Extra., dated 23.3.2002, P. 4538)

(Issued and published in Hindi in R.H.P.Extra., dated 5.4.2006, p. 2006)

Shimla-171002, the 22nd September, 2005.

No. HFW-B(A)5-1/97-II.- In continuation of this department notification No. HFW-B(A)5-1/97 dated 4-7-1997 and No. HFW-B(A)5-1/97-II dated 16-1-2002 and in exercise of the powers conferred by Section-3 of the Himachal Pradesh Prohibition of smoking and Non-Smokers Health Protection Act, 1997 (17 of 1997), the Governor of Himachal Pradesh is further pleased to declare the following places /Public conveyances in the state to be non-smoking places for the purpose of this Act:-

1. Mall Road from lift to Scandal point.
2. Private Buses and Taxi's.

(R.H.P. Extra., dated 5.4.2007, P. 207)

APPOINTMENTS AND DELEGATIONS

[Issued and published in Hindi in R.H.P. Extra., dated 18.7.97, p. 2724].

Shimla-2, the 4th July, 1997

No. HFW-B(A) 5-1/97.- In exercise of the powers conferred by Section 4 of the Himachal Pradesh Prohibition of Smoking and Non-Smokers Health Protection Act, 1997 (17 of 1997) the Governor, Himachal Pradesh, is pleased to declare the following Officers of the State Government as Authorised Officer to carry out the functions under the aforesaid Act in their respective jurisdiction/ premises :-

1. All the Executive Magistrates of the rank of Tehsildar and above;
2. All the BMOs/ CMOs in Himachal Pradesh;
3. All the BDOs in Himachal Pradesh ;
4. Medical Officers authorised by Government working in Community Health Centres, Primary Health Centres, Rural Hospitals, Civil Dispensaries and Zonal Hospitals ;
5. Medical Officers posted in Urban Local Bodies ;
6. Executive Officers of Urban Local Bodies ;

7. All the Regional Transport Officers and all the Officers of the Excise and Taxation Department, Himachal Pradesh not below the rank of Excise and Taxation officers ;
8. Regional Manager, Traffic Managers, Chief Inspectors and Inspectors of H.R.T.C.

(R.H.P. Extra., dated 18.7.97, p. 2725-2726).

[Issued and published in Hindi in R.H.P. Extra., dated 18.7.97, p. 2726].

Shimla-171002, the 4th July, 1997

No. HFW-B(A)5-1/97.- In exercise of powers conferred by Section 16 of The Himachal Pradesh Prohibition of Smoking and Non-Smokers Health Protection Act, 1997 (17 of 1997) the Governor, Himachal Pradesh, is pleased to authorise before or after the proceedings instituted under the Act ibid all the Executive Magistrates not below the rank of Tehsildar to compound any offences made punishable by or under this Act.

(R.H.P. Extra., dated 18.7.97, p. 2726-2727).
