

Madhya Pradesh Home Guards Act, 1947

15 of 1947

[07 May 1947]

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APPENDIX 1 :- Annexure I

Madhya Pradesh Home Guards Act, 1947

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An Act to provide for the constitution of Home Guards. Whereas it is expedient to create a body of volunteers to supplement the Police Force 2[and to assist in any general measure of public welfare] in 3[Madhya Pradesh]; It is hereby enacted as follows : 1. Received the assent of the Governor on the 7-5-1947; assent first published in the Central Provinces and Berar Gazette on the 16-5-1947. For Statement of Objects and Reasons, see Central Provinces and Berar Gazette, Extraordinary, dated the 10-3-1947 at page 100. 2. Inserted by Section 2 of Central Provinces and Berar Act No. XLII of 1949. 3. Substituted by A.O. 1950.

1. Short Title, Extent And Commencement :-

(1) This Act may be cited as the Central Provinces and Berar Home Guards Act, 1947.

1[(2) It extends to the whole of Madhya Pradesh.

(3) It shall be in force in the towns of Jabalpur, Sagar, Khandwa, Burhanpur, Raipur, Bilaspur, Chhindwara and Betul and in all such revenue districts of Madhya Pradesh, in which this Act or any law corresponding to it was in force immediately before the commencement of the Madhya Pradesh Extension of Laws Act, 1958 (23 of 1958) and may be brought into force in any other revenue district or part thereof on such date as the State Government may, by notification in the Official Gazette, appoint.]

1. Substituted by M.P. Extension of Laws Act, 1958.

2. Definitions :-

In this Act unless there is anything repugnant in the subject or context:--

(a) "Home Guard" means a person who is appointed as such under this Act;

(b) "prescribed" means prescribed by rules made under this Act.

3. Raising Of Home Guards :-

(1) In any revenue district or part thereof in which this Act is in force, the State Government may raise in such manner as may be prescribed Home Guards who shall discharge such duties in relation to the protection of the person, the security of property and the public safety 1[and the assistance in any general measure of public welfare] as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder.

2[(1-a) The State Government may, in its discretion, constitute the Home Guard raised under sub-section (1) into one or more Forces and may divide any such Force into one or more branches.]

3[(2) Every Home Guard shall be formally appointed and the Force or Forces of the Home Guard, as the case may be, shall consist of such number of the officers and men as may be ordered by the State Government.]

(3) The conditions of training and service including an honorarium and board and lodging of the officers and men of the Home Guard shall be such as may be prescribed.

1. Inserted Central Provinces and Berar Act No. XLII of 1949.

2. Inserted by Central Provinces and Berar Act No. XXI of 1948.

3. Substituted by Central Provinces and Berar Act No. XXI of 1948.

4. Subordination And Superintendence :-

(1) 1[x x x]

(2) The superintendence of the Home Guards throughout 2[Madhya Pradesh] shall vest in and shall be exercised by the State Government through the Inspector-General of Police of the State in such manner and to such extent as may be prescribed.

3[(3) The Administration of the Home Guards shall vest in one or more Commandants-General and such Commandants and other officers as may be appointed by the State Government]

1. Omitted by Central Provinces and Berar Act No. XXI of 1948.

2. Substituted by M.P. Act No. 23 of 1958.

3. Substituted by Central Provinces and Berar Act No. XXI of 1948.

5. Appointment Of Officers :-

(1) The Commandant-General shall be appointed by the State Government.

(2) The appointment of any Home Guard to an office of command subordinate to that of the Commandant-General shall be made in such manner as may be prescribed.

6. Appointment Of Home Guards :-

(1) Subject to the provisions of this Act and to the rules made thereunder any person willing to serve as a Home Guard and possessing such qualifications as may be prescribed may be appointed a Home Guard.

(2) The appointment of Home Guards shall be made in such manner and by such authority as may be prescribed.

(3) (a) Every officer and every man of the Home Guard shall receive on his appointment a certificate in the form annexed to this Act under the seal of the Commandant-General in the case of officers and of the Commandant in the case of men, by virtue of which the person holding such certificate shall be vested with the powers and privileges of a Home Guard.

(b) Such certificate shall cease to have effect whenever the person named in it ceases to be a Home Guard and on his so ceasing shall within ten days be surrendered by him to the Commandant-General if he is an officer and to the Commandant in all other cases.

7. Duties And Training Of Home Guards :-

1[(1) Every Home Guard shall, during the period of his training and service in the reserve be bound to perform such duties as may be prescribed for the time being in relation to the protection of the person, the security of the property and the public safety and the assistance in any general measure of public welfare.]

2[(1-a) Subject to any rules made in this behalf it shall be the duty of every Home Guard promptly to obey and execute all orders issued to him by any competent authority, to collect and communicate to his immediate superior intelligence affecting the public safety and to prevent the commission of offences against person or property.

(2) Subject to any rules made in this behalf a Home Guard may be required to undergo 3[training for such period and in such manner as may be prescribed] after which he shall serve as a Home Guard for a period of six months which period may be extended by the State Government to a total period of not more than twelve months if the State Government considers such extension necessary and shall thereafter serve in the reserve for a period of three years and while in the reserve shall be liable to be called out for duty at any time.

4[(2-A) The Commandant-General may with the written consent of a Home Guard, extend from time to time the period of service of such Home Guard in the reserve and thereupon such Home Guard shall serve in the reserve for a further period of three years and while in the reserve shall be liable to be called out for duty at any time.]

1. Inserted by Central Provinces and Berar Act No. XLII of 1949.

2. Renumbered as sub-section (1-a) by Central Provinces and Berar Act No. XLII of 1949.

3. Substituted by the Central Provinces and Berar Act No. XXI of 1948.

4. Inserted by M.P. Act No. XIX of 1951.

8. Discharge :-

(1) Every officer and man of the Home Guards shall be entitled to receive his discharge from the Home Guards on the expiration of his period of service 1[or extended period of service] in the reserve; but any such person may before he becomes so entitled, be discharged by such authority and subject to such conditions as may be prescribed.

(2) The prescribed authority may, subject to such conditions as may be prescribed, dismiss any officer or man from the Home Guards.

1. Inserted by M.P. Act No. XIX of 1951.

9. Uniform :-

Officers and men of the Home guards shall wear such uniform as may be prescribed.

10. Calling Out Home Guards :-

1[(1) The District Magistrate having jurisdiction over any revenue district or part thereof in which Home Guards are raised may by an order made in such manner as may be prescribed call out any Home Guard for the discharge of any duty assigned to the Home Guards in accordance with the provisions of this Act and the rules made thereunder.]

2[(3) The District Magistrate may, in cases of emergency, by order in writing, direct that the power of calling out any Home Guard under sub-section (1) for the purpose of securing the public safety or preventing the commission of offences against person or property shall, in such circumstances and under such conditions, if any, as may be specified in that direction be exercised by any Magistrate not being a Magistrate of the third class or a police officer not below the rank of a Sub-Inspector of Police.

(3) The Commandant-General or such officer of the Home guards as may be authorised by him in this behalf may call out the Home guards in any area for the performance of any duty relating to any general measure of public welfare and prescribed under sub-section (1) of Section 7.]

1. Inserted by Central Provinces and Berar Act No. XLII of 1949.

2. Inserted by Central Provinces and Berar Act No. XLII of 1949.

11. Control Over Home Guards :-

The Home Guards shall at all times when undergoing training or when called out be under the control and subject to the order of their officers, and shall when called out be further subject to the general control of the District Magistrate [and where the Home Guard has been called out by an authority other than District Magistrate, also such authority], in such manner and to such extent as may be prescribed.

1. Inserted by Central Provinces and Berar Act No. XLII of 1949.

12. Powers And Protection Of Home Guards :-

(1) Subject to the provisions of this Act or the rules made thereunder a Home Guard when called out under Section 10 shall have the same powers, privileges and protection as an officer of police appointed under any enactment for the time being in force.

(2) No prosecution shall be instituted against a Home Guard in respect of anything done or purporting to be done by him in the discharge of his duty as Home Guard, except with the previous sanction of the State Government or some officer empowered by the State Government in this behalf.

13. Penalty :-

(1) Every Home Guard who is guilty of any violation of duty or wilful breach or neglect of any provisions of this Act, or of any rule or lawful order made by competent authority, or who withdraws from the duties of his office with permission or who on being required to undergo training under Section 7 or being called out under Section 10 without sufficient cause neglects or refuses to obey the requirement or the order calling him out, or who is guilty of cowardice or offers any unwarrantable personal violence to any person in his custody, or who fails within ten days to surrender his certificate under clause (b) of sub-section (2) of Section 6, shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both.

(2) An offence punishable under sub-section (1) shall be cognizable.

1[(3) The Commandant-General, the District Magistrate, or, subject to the control of the Commandant-General, Commandant or an officer not below such rank as may be prescribed, may, for any act of commission or omission punishable under sub-section (1), without formal trial, award to any Home Guard below the rank of Commandant, who is subject to his authority, any of the following punishments, namely,--

(a) imprisonment in the Quarter Guard of a police line or such other place as may be considered suitable, for a term which may extend to twenty-eight days when the order is passed by the Commandant-General or the District Magistrate, or to seven days when it is passed by any other officer. Such imprisonment shall

involve the forfeiture of pay, honorarium and allowances, if any, for the period of imprisonment;

(b) punishment drill, extra guard, fatigue or other duty, not exceeding twenty-eight days induration, with or without confinement to the lines as may be appropriate.]

1. Inserted by Central Provinces and Berar Act No. XXI of 1948.

14. Rules :-

(1) The State Government may 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 or regulate all or any of the following matters, namely,--

(a) all matters which are required by this Act to be prescribed;

(b) The exercise by the Commandant-General or the Commandant or other officer of the Home Guards of the powers conferred on District Superintendents of Police 1[Madhya Pradesh];

(c) the organization, appointment, conditions of service, functions, discipline, arms accoutrements, clothing and uniform of the Home Guards and the manner in which they may be called out for service or required to undergo training; and

(d) the exercise by a Home Guard of any of the powers exercisable under Section 12 of the Act.

1. Substituted by M.P. Act No. 23 of 1958.

15. Home Guard To Be A Public Servant :-

A Home Guard acting in the discharge of his functions under this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, XLV of 1860.

APPENDIX 1

Annexure I

Form of Certificate

[See Section 6 (3)(a)]

Name.....

Son of.....

Caste.....

Resident of.....

has been appointed an officer/a member of the Home Guards under Section 6 (3) (a) of the Central Provinces and Berar Home Guards Act, 1947 (XV of 1947). When lawfully on duty, he shall have the same powers, privileges and protection as an officer of the police appointed under any enactment for the time being in force.

Date of appointment.....

Place.....

Dated.....

Commandant-General of the Home Guards, Madhya Pradesh.

Commandant of the Home Guards.....