

**Uttar Pradesh Home Guards Adhiniyam, 1963****29 of 1963****[30 December 1963]**

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**Uttar Pradesh Home Guards Adhiniyam, 1963****29 of 1963****[30 December 1963]**

An Act to provide for the constitution of the Home Guards in Uttar Pradesh Whereas it is expedient to provide for the constitution of a force known as the Uttar Pradesh Home Guards for utilising its services for duties in times of emergency and serving as an auxiliary to the Police for the maintenance of law and order. It is hereby enacted in the Fourteenth Year of the Republic of India as follows : 1. Received the assent of the governor on December 30, 1963 and the English translation of the Act was published in U. P. Gaz. Extra., dated December 31, 1963.

**1. Short Title, Extent And Commencement :-**

(1) This Act may be called the Uttar Pradesh Home Guards Adhiniyam, 1963.

(2) It shall extend to the whole of Uttar Pradesh.

(3) It shall come into force at once.

## **2. Definitions :-**

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

1((a) "District Commandant" means the Officer commanding the Home Guards in a district;

(b) "duty" or "service" as home guard shall include the undergoing of training as such;

(c) "employer" means an employer in relation to private service, and includes his authorised agent or manager and in the case of a corporation, firm or other association of individuals, includes its director, partner, secretary or other persons in charge of or responsible to it for the conduct of its business at any given time-

(d) "essential service" means motor transport, pioneer and engineering corp, fire brigades, nursing, first-aid operation of water and power supply installations and such other services as may be notified by the State Government as being essential to the life of the community;

(e) "home guard" means a person who is enrolled as such, and includes an officer appointed under this Act;

(f) "Police" shall have the same meaning assigned to the word in the Police Act, 1861;

(g) "prescribed" means prescribed by rules framed under this Act;

(h) "private service" means any service other than service under the State;

(i) 2(\* \* \*)

(j) "Service under the State" means service under the "State" as defined in Article 12 of the Constitution of India, and includes service under any statutory corporation;

(k) "State Government" means the Government of Uttar Pradesh; and

(1) 3(\* \* \*)

1. Substituted by U. P. Act No. 4 of 1972, Section 2 (a).

2. Clause (i) omitted by U. P. Act Mo. 4 of 1972, Section 2 (ii).

3. Clause (i) omitted by ibid.

## **3. Constitution Of Home Guards :-**

There shall be raised and maintained a volunteer force to be designated the Uttar Pradesh Home Guards hereinafter called the

Home Guards and it shall be constituted in the manner prescribed.

#### **4. Functions :-**

The Home Guards will have the following functions:--

- (a) they will serve as auxiliary to the police, and, when required, help in maintaining public order and internal security;
- (b) they will help the community in air raids, fires, floods, epidemics and other emergencies;
- (c) they will function as an emergency force for such special tasks as may be prescribed;
- (d) they will provide functional units for essential service; and
- (e) they will perform such other duties, relating to any measure of public welfare as may be prescribed.

#### **5. Appointment Of Commandant-General And Other Officers :-**

The State Government shall appoint a Commandant-General of Home Guards, hereinafter called the Commandant-General, and other officers on such terms and conditions as may be prescribed.

#### **6. Superintendence And Administration Of Home Guards :-**

(1) The superintendence of the Home Guards shall vest in and be exercised by the State Government.

(2) The administration of the Home Guards throughout the State shall vest in and be exercised by the Commandant-General except in relation to any local area that may be excluded by notification by the State Government in this behalf; and any officer appointed to administer the Home Guards of any local area so excluded shall exercise in relation to that area the like power as the Commandant-General exercises in the rest of the State.

1((3) Subject to the general control and direction of the District Magistrate, the administration of the Home Guards in a district shall vest in and be exercised by the District Commandant.)

1. Substituted by U. P. Act No. 4 of 1972, Section 3.

#### **7. Enrolment Etc. :-**

(1) Subject to such conditions as may be prescribed, any person desiring to be enrolled as home guards shall make an application in the prescribed form. If such applicant is in private service he shall make such application through his employer, or if in service under

the State through the authority competent to grant him permission to join the force.

(2) A home guard shall be formally enrolled and on enrolment make a declaration in the form set out in the First Schedule and receive a certificate of appointment in the form set out in the Second Schedule under the seal and signature of such officer as may be prescribed, by virtue of which he shall be vested with the powers and privileges and be subject to the duties of a home guard.

(3) Officers and other members of the Home Guards shall wear such uniforms as may be prescribed.

## **8. Calling Out Of Home Guards :-**

Subject to the provisions of this Act and the rule made thereunder-

(a) 1(the District Magistrate or the District Commandant) may by order call out any home guard attached to a unit posted in the district for duty in any area within that district;)

(b) : the Commandant-General or such officer of the Home Guards as may be authorised by him in this behalf, may call out any home guard for duty in any part of the State or outside the State.

1. Substituted by U. P. Act Mo. 4 of 1972, Section 4, for the words "the District Magistrate".

## **9. Powers, Privileges And Protection Of Home Guards :-**

(1) Subject to the provisions of this Act and the rules made thereunder, a home guard when called out under Section 8 to serve as auxiliary to the police or to help in maintaining public order or internal security shall have the same powers, privileges and protection as a member of the police force appointed under any enactment for the time being in force, and shall be subject to such adaptations and modifications as may be made therein by the State Government by notification in the official Gazette, be subject to the provisions of the Police Act, 1861 and the rule or regulation made thereunder in the same manner and to the same extent as he would, if such home guard held a corresponding rank in the police force to the one he holds for the time being in the Home Guards.

(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 a home guard, except with the previous sanction of the District Magistrate having jurisdiction over the area

in which the home guard was enrolled or in which the act was committed.

#### **10. Home Guards To Be Public Servants But Not Civil Servants :-**

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.

Explanation.--A home guard shall not be deemed to be a holder of a civil post merely by reasons of his enrolment as home guards.

#### **11. Liability For Service :-**

(1) Subject to any rules made in this behalf a home guard shall be bound to serve in any unit of the Home Guards to which he is for the time being attached.

(2) The initial period during which a home guard may be required to serve shall be three years from the date of his enrolment. This period may be extended with his consent recorded in the prescribed manner.

(3) Every home guard shall be liable to serve, when called out in the prescribed manner, for duty in any part of the State. No home guard shall be required to render service outside the State unless he has given his consent in the prescribed manner for such service.

(4) The home guard called out for duty may be paid such allowances as may be prescribed.

(5) The home guards will ordinarily be called out to serve in the areas of their enrolment and only for part-time duty.

#### **12. Discharge, Suspension And Resignation :-**

(1) The Commandant-General or any other officer prescribed in this behalf shall have the authority to discharge or suspend any member of the Home Guard in accordance with the rules made in this behalf. A Home Guard may resign from the force after giving one months notice delivered to such officers as may be prescribed.

(2) Subject to the provisions of the last preceding sub-section every home guard shall be entitled to receive his discharge from the Home Guards on the expiration of the period specified in sub-section (2) of Section 11.

(3) Every person who for any reason ceases to be a member of the Home Guards, shall forthwith deliver up to the Commandant-

General or to such officer and at such place as may be prescribed or as the Commandant-General may direct, his certificate of appointment and the arms accoutrements, clothing and other articles which may have been received by him as such member.

(4) Any Magistrate may issue a warrant to search or seize wherever they may be found any certificate, arms, accoutrements, clothing or other articles not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898 by a Police Officer, or, if the Magistrate issuing the warrant so directs, by any other person.

(5) Nothing in this section shall be deemed to apply to any article which under any general or special order of the Commandant-General has become the property of the person to whom the same was furnished.

See now Code of Criminal Procedure., 1973 (2 of 1974).

### **13. Penalties :-**

(1) If a home guard--

(a) fails to report himself when called out for duty under Section 8; or

(b) without sufficient excuse neglects or refuses to obey any lawful order or direction of his superior officer or other competent authority or fails to discharge his function as a member of Home Guards while on duty; or

(c) deserts his post; or

(d) is guilty of cowardice; or

(e) offers any unwarranted personal violence to any person in his custody, he shall on conviction by a Magistrate of the first class, be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred rupees, or with both.

(2) If any person wilfully neglects or fails to comply with sub-section (1) of Section 12, he shall, on conviction, be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred rupees or with both.

(3) No prosecutions shall be instituted under sub-section (1) or (2) without the previous sanction of the Commandant-General or such other officer as may be prescribed in this behalf.

(4) On a report of 1[the District Commandant), a police officer may arrest without warrant any person accused of an offence punishable

under sub-section (1) or (2).-

(5) When a number of the Home Guard other than an officer commits an offence punishable under sub-section (1), 2[the District Commandant), or such other officer as may be prescribed, under whom the member is for the time being serving, may direct that the charge shall be dealt without formal trial and thereupon the said Commandant or other officer may in the prescribed manner award to him any one or more of the following punishments namely,--

(a) confinement in such place as may be considered suitable for a period not exceeding two days;

(b) punishment drill, extra work, fatigue or other duty not exceeding seven days in duration, with or without confinement to quarters; and

(c) forfeiture of allowances.

1. Substituted by U. P. Act Mo. 4 of 1972, Section 5 (i), for the words "the Commandant of a battalion".

2. Substituted by ibid.

#### **14. Obligation Of Employer To Permit Home Guards To Join Duty :-**

(1) Except as may be prescribed, every employer shall permit a home guard who is for the time being employed by or under him to join his duty as such, and notwithstanding anything in any law or agreement between him and such Home Guard in force, the period of his duty shall, subject to such conditions and restrictions as may be prescribed, be deemed to be the period spent in such employment.

(2) No employer shall dismiss, remove or suspend any employee, or take any other action which may prejudice such employee, by reason of his being a member of the Home Guards.

(3) Whoever contravenes the provisions of sub-section (1) or (2) shall be punished with fine which may extend to two hundred and fifty rupees, and the court by which an employer is convicted under this section may further order him to pay to the employee a sum not exceeding three months remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so ordered to be paid by the court shall be recoverable as if it were a fine imposed by such court.

(4) Nothing in this section shall apply to an employer unless he had forwarded the application of the employee concerned for enrolment

as Home Guard or been informed by the employee of his being a Home Guard at the time of applying for employment.

**15. Power To Make Rules And Regulations :-**

(1) The State Government may make rules for carrying out the purposes of this Act and for giving effect to its provisions generally.

(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) the organization, qualifications, manner of enrolment, medical examination, functions, discipline, accoutrements, clothing and uniform of home guards and the manner in which they may be called out for service or required to undergo training;

(b) exercise by home guards of the powers of a police officer and the correspondence of ranks between home guards and police personnel for purposes of sub-section (I) of Section 9;

(c) the conditions subject to which any person may be exempted from any obligation or liability under this Act or any particular provision thereof;

(d) the delegation of the powers and functions conferred by this Act on the State Government to the Commandant-General and other authorities; and

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

(3) All rules made under this Act shall, as soon as may be after they are made, be laid before each House of the State Legislature while it is in session for a total period of not less than fourteen days extending in its one session or more than one successive sessions and shall.

unless some later date is appointed, take effect from the date of their publication in the official Gazette subject to such modifications or annulments as the Houses of the Legislature may agree to make, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.