

The Indian Soldiers (Litigation) Rules, 1938

UNION OF INDIA

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Rule THE-INDIAN-SOLDIERS-LITIGATION-RULES-1938 of 1938

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2034.

No. 455, dated 14th May, 1938. - In exercise of the powers conferred by section 13 of the Indian Soldiers (Litigation) Act, 1925 (IV of 1925), the Central Government, after consulting the High Courts concerned, is pleased to make the following rules, namely :-

1. [Short title and extent [Substitued by No. 1684, dated 11th October, 1941]

(1) These rules may be called the Indian Soldiers (Litigation) Rules, 1938. [***] [Omitted by S.R.O. 332, dated 25th October, 1952]

2. Definitions

(1) In these rules, "the Act" means the Indian Soldiers (Litigation) Act, 1925 (IV of 1925). (2) All words used herein and defined in the Act shall be deemed to have the meaning respectively attributed to them by the Act.

3.

The prescribed authority for the purposes of sub-clause (iv) of clause (b) of section 3 and sections 6, 7 and 8 of the Act shall be the Officer Commanding the unit or the Depot of the unit to which the soldier belongs.

4.

The certificate given by a Collector under section 5 of the Act shall be in Form A of the Schedule.

5.

The notice given by the Court under section 6 of the Act shall be in Form B of the Schedule and shall be sent to the prescribed authority care of the General Officer Commanding in Chief of the Command in which the Court is situated, and the certificate of the prescribed authority under section 7 of the Act, shall be in Form C of the Schedule.

6.

If at any time it appears to the prescribed authority that the circumstances in which he certified to the Court under section 7 of the Act that a postponement of the proceedings was necessary in the interests of justice, no longer exist, he shall forthwith certify to the Court to that effect in Form D of the Schedule.

7.

On receipt of a certificate from the prescribed authority under section 7 of the Act that postponement of the proceedings is necessary in the interests of justice, the Court shall postpone the proceedings until the receipt of a certificate in Form D from the prescribed authority, or until the soldier is represented in the proceedings by some person duly authorized to appear, plead or act in his behalf.

8.

The prescribed authority for the purposes of section 12 of the Act shall be the General Officer Commanding-in-chief of the Command in which the Court is situated.[Schedule] [Substituted by No. 540, dated 5th April, 1941]Form A(See rule 4)Collector's certificate under section 5 of the Indian Soldiers (Litigation) Act, 1925.FromThe Collector,District.....To.....In re.....No.....of 19.....versusNo., datedSir,I have the honour to certify under section 5 of the Indian Soldiers (Litigation) Act, 1925 (IV of 1925), that I have reason to believe that.....son of.....who is an Indian soldier ordinarily residing_in my district and who is a party in the above-mentioned having property (enter suit, appeal, application or other proceedings), now pending in (enter name of court), is unable to appear therein.[Yours faithfully]CollectorNotes - (1) This certificate should be sent by post in a registered cover or by hand and an acknowledgement should be obtained for it.(2)It should be addressed, in the case of a High Court, to the Registrar of the Court or in the case of a Board of Revenue to the Secretary of such Board, or in the case of a Financial Commissioner, to the Clerk of the Court, or in other cases to the Presiding Officer of the Court.Form B(See rule 5)Notice

under section 6 of the Indian Soldiers (Litigation) Act, 1925. In

the.....No.....

Officer Commanding (enter name of unit / depot of unit). Care of the General Officer Commanding in Chief.....Command. Please take notice that [upon the certificate of the Collector of.....under section 5 of the Indian Soldiers (Litigation) Act, 1925 IV of 1925]] [having had reason to believe] that.....son

of.....an Indian soldier, who is a party in the above-mentioned proceeding now pending in this Court and is not represented by any person duly authorized to appear, plead or act on his behalf, is unable to appear therein, this Court has, under section 6 of the said Act, suspended the proceeding. If, within the period prescribed in section 8 of the said Act, no certificate is received from you under section 7 thereof, the Court will, if it thinks fit, continue the proceedings. Given under my hand and the seal of the Court, this the.....day of.....19.....

Presiding officer of the Court. Registrar. Note - This notice should be sent by post in a registered cover, or by hand, and an acknowledgement should be obtained for it. Form C (See rule 5) Certificate under section 7 of the Indian Soldiers (Litigation) Act, 1925 From The Officer Commanding, (enter name of / depot of

unit) To.....No.....of

19.....Versus No., dated Sir, I have the honour to acknowledge receipt of your notice, dated....., under section 6 of the Indian Soldiers (Litigation) Act, 1925, in the above mentioned proceeding, and to certify under section 7 of the said Act that son

of....., in respect of whom the above-mentioned notice has been given, is serving under special conditions and that a postponement of the proceeding in respect of that soldier is necessary in the interests of justice. [Yours faithfully,] [Substituted by S.R.O. 332, dated 25th October, 1952] Officer Commanding

Note - (1) This certificate should be sent by post in a registered cover or by hand, and an acknowledgement should be obtained for it. (2) It should be addressed in the case of a High Court, to the Registrar of the Court, or in the case of a Board of Revenue to the Secretary of such Board, or in the case of a Financial Commissioner, to the Clerk of the Court, or in other cases to the Presiding Officer of the Court. Form D (See rule 6) Certificate under rule 6 of the Indian Soldiers (Litigation) Rules,

1938, From.....To.....

re..... No..... of 19..... versus No., dated Sir, I have the honour to invite a reference to my letter No..... dated....., and to certify under rule 6 of the Indian Soldiers (Litigation) Rules, 1938, that circumstances no longer exist for the postponement of the above-mentioned (enter

suit, appeal, application or other proceeding), now pending in (enter name of court), whereinson of....., an Indian soldier, is a party. [Yours faithfully,] [Substituted by the S.R.O. 332, dated the 25th October, 1952] Officer Commanding. Notes. - (1) This certificate should be sent

by post in a registered cover, or by hand, and an acknowledgement should be obtained for it. (2) It should be addressed, in the case of a High Court, to the Registrar of the Court, or in the case of a Board of Revenue to the Secretary of such Board, or in the case of a Financial Commissioner, to the Clerk of the Court, or in other cases to the Presiding Officer of the Court.