

The West Bengal National Volunteer Force Act, 1949

WEST BENGAL

India

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Act 1 of 1949

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The West Bengal National Volunteer Force Act, 1949 West Bengal Act 1 of 1949 [24th February, 1949.] An Act to provide for the constitution of a National Volunteer Force in West Bengal. Whereas it is expedient and necessary to provide for the constitution of a National Volunteer Force in West Bengal by enrolment therein of the citizens of [* * *] [Words 'the Dominion of' omitted by the Adaptation of Laws Order, 1950.] India [* * *] [Words 'or subjects of an Acceding State' omitted by the Adaptation of Laws Order, 1950.] or persons having permanent domicile in West Bengal who may offer themselves for such enrolment, for service during a period of emergency and for such other purposes as the [State Government] [Words substituted for the words 'Provincial Government' by the Adaptation of Laws Order, 1950.] may think fit; It is hereby enacted as follows:-

1. Short title, extent and commencement. -

(1) This Act may be called the West Bengal National Volunteer Force Act, 1949. (2) It extends to the whole of West Bengal. (3) It shall come into force on the date on which the West Bengal National Volunteer Force Ordinance, 1948, ceases to operate.

2. Definitions. -

In this Act, unless there is anything repugnant in the subject or context,-(a) "Advisory Committee" means [the West Bengal National Volunteer Force Advisory Committee] [Words substituted for the words 'the Provincial Advisory Committee' by the Adaptation of Laws Order, 1950.], the District Advisory Committee or the Unit Advisory Committee constituted under section 15 ;(b) "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866, together with the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866 ;(c) "Force" means the West Bengal National Volunteer Force ;(cc)[] [Clause (cc) inserted by W.B. Act 20 of 1964.] "Inspector-General" means the Inspector-General of Police referred to in section 4 of the Police Act, 1861 and includes any officer to whom such Inspector-General of Police may delegate his powers, functions and duties under this Act;(d) "Officer" means an officer

appointed under this Act;(e)"prescribed" means prescribed by rules made under this Act;(f)"subordinate other ranks" means subordinate other ranks appointed under this Act; and(g)['volunteer' means a person enrolled as a member of the West Bengal National Volunteer Force or of any unit or corps of the Force established, constituted or formed, as the case may be, under the proviso to section 3 or section 7.] [[Clause (g) substituted by W.B. Act 7 of 1976, w.e.f. 29.3.1976, which was earlier as under:-(g) 'volunteer' means a person enrolled as a member of the West Bengal National Volunteer Force.']]

3. Constitution of the National Volunteer Force. -

[(1) The] [Section 3 renumbered as Sub-section (1) of that section by W.B. Act 20 of 1964.] [State] [Word substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may raise and maintain a volunteer force to be called the West Bengal National Volunteer Force and for that purpose enrol persons as volunteers from Calcutta and elsewhere in West Bengal:Provided that the [State] [Word substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may establish all or any of the units of the Force as and when necessary.(2)[Sub-section (2) inserted by W.B. Act 20 of 1964.] Subject to the control of the State Government, the superintendence and direction of the Force shall be vested in the Inspector-General and all officers and subordinate other ranks of the Force appointed under section 5 shall be subordinate to the Inspector-General.

4. Functions. -

A volunteer, when called upon for duty, shall discharge such functions in relation to the protection of persons, the security of property and the preservation of the public peace in any area within West Bengal and such other functions as may be assigned to him by or under this Act.

5. Appointment of officers and subordinate other ranks. -

The [State] [Words substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government or any person empowered in this behalf by the [State] [Words substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may appoint a [State Commandant] [Words substituted for the word 'Provincial Commandant' by W.B. Act 7 of 1976, w.e.f. 26.1.1950.] of the Force and such other officers and such subordinate other ranks for, and for any unit of, the Force as the [State] [Words substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may consider necessary and may prescribe the powers and duties of such officers and subordinate other ranks in addition to the powers and duties conferred by this Act. Every officer and subordinate other rank shall have the privileges and protection conferred on an officer or subordinate other rank by or under this Act.

6. Officers and subordinate other ranks in the Force. -

There shall be the following classes of officers and subordinate other ranks in the Force,

namely Officers. (1) [State Commandant] [Words substituted for the word 'Provincial Commandant' by W.B. Act 7 of 1976, w.e.f. 26.1.1950.], (2) [Deputy State Commandant] [Words substituted for the words 'Deputy Provincial Commandant' by W.B. Act 7 of 1976, w.e.f. 26.1.1950.], (3) District or Unit Commandant, (4) Company Commander. Subordinate other ranks. (1) Platoon Commander, (2) Section Commander.

7. Constitution of any separate unit of the Force. -

Notwithstanding anything contained elsewhere in this Act the [State] [Words substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, by Notification in the Official Gazette, direct that one or more corps or units of the Force be constituted or formed for any particular region within West Bengal or for any specified purpose.

8. Enrolment and removal of a member of the Force. -

[(1) Any citizen of India or any person having a permanent domicile in West Bengal who may offer himself for enrolment in the Force and who satisfies the prescribed conditions may be eligible for enrolment therein by such authority, in such manner and for such period as may be prescribed:]
[[Sub-section (1) first substituted by W.B. Act 19 of 1983, w.e.f. 24.6.1983, then again substituted by W.B. Act 29 of 1989 w.e.f. 9.6.1989. Previous Sub-section (1) was as under:-(1) Any citizen of India or any person having a permanent domicile in West Bengal who may offer himself for enrolment in the Force and who satisfies the prescribed conditions may be eligible for enrolment therein by such authority, in such manner and for such period not exceeding ten years as may be prescribed: Provided that every volunteer enrolled under this Act shall cease to remain under enrolment on attaining the age of forty-five years.']] Provided that no person who has attained the age of [fifty-five years] [Words substituted for the word 'fifty years' by W.B. Act 18 of 1999, w.e.f. 17.9.1999.] shall be eligible to be enrolled in the Force: Provided further that every volunteer enrolled under this Act shall cease to remain under enrolment on attaining the age of [sixty years] [Words substituted for the word 'fifty-five years' by W.B. Act 18 of 1999, w.e.f. 17.9.1999.], (2) Every volunteer shall receive a certificate of appointment in the prescribed form and such certificate shall be issued by such authority as may be prescribed and thereupon he shall have the powers, privileges and protection conferred, and shall discharge the duties imposed, on a volunteer by or under this Act. (3) Every volunteer enrolled under this Act shall undergo such preliminary and periodical training as may be prescribed. (4) Every person enrolled as a volunteer under this Act shall be entitled to receive a certificate of discharge in the prescribed form on the expiration of the period for which he was enrolled and any such person may, prior to the expiration of that period, be discharged by such authority subject to such conditions as may be prescribed, and shall be so discharged on the recommendation of the Advisory Committee in this behalf. (5) The prescribed authority may, subject to such conditions as may be prescribed, -(a) suspend, discharge, dismiss or remove any volunteer from his office and thereupon the certificate referred to in sub-section (2) shall cease to have effect, or (b) disband any unit constituted under this Act and thereupon every volunteer of such unit shall vacate office.

8A. [Special provision for fresh enrolment in the Force.-] [Section 8A inserted by W.B. Act 19 of 1983.] (1) Notwithstanding anything contained in this Act, any citizen of India or any person having a permanent domicile in West Bengal, who had been enrolled as a volunteer under this Act but the period for which he had been so enrolled expired and who might or might not have received a certificate of discharge under sub-section (4) of section 8, may offer himself for fresh enrolment in the Force and may, if he satisfies the prescribed conditions, be eligible for fresh enrolment therein by such authority, in such manner and for such period [* * * *] [Words 'not exceeding five years' omitted by W.B. Act 29 of 1989, w.e.f. 9.6.1989.] as may be prescribed, provided he has not exceeded the age of [55 years] [Word and figures '50 years' first substituted for the word and figures '40 years' by W.B. Act 29 of 1989, w.e.f. 9.6.1989, then the word and figures within third brackets substituted for the word and figures '50 years' by W.B. Act 18 of 1999, w.e.f. 17.9.1999.] on the date of such enrolment.

(2) Every volunteer enrolled under sub-section (1) shall cease to remain under enrolment on attaining the age of [60 years] [Word and figures '55 years' first substituted for the word and figures '45 years' by W.B. Act 29 of 1989, w.e.f. 9.6.1989. then the word and figures within third brackets substituted for the word and figures '55 years' by W.B. Act 18 of 1999. w.e.f. 17.9.1999.]. (3) A volunteer enrolled under sub-section (1) shall not be required to undergo any preliminary or periodical training referred to in sub-section (3) of section 8, but he shall be required to take oath or affirmation in the manner prescribed and shall, thereupon, receive a certificate of appointment in the prescribed form and such certificate shall be issued by such authority as may be prescribed and thereupon he shall have the powers, privileges and protection conferred, and shall discharge the duties imposed, on a volunteer by or under this Act. (4) All the provisions of this Act, except those contained in sub-sections (1), (2) and (3) of section 8, shall apply to the volunteers enrolled under sub-section (1) of this section.

9. Posting of a volunteer to a Unit. -

Every person enrolled as a volunteer under this Act may be posted for any period to any unit of the Force and thereupon he shall be bound to serve in the said unit for that period.

10. Calling out of a member of the Force. -

[(a1) The State Government] [Sub-section (a1) inserted by W.B. Act 54 of 1950.] [or the Inspector-General or the] [Words substituted for the words 'or the Provincial Commandant,' by W.B. Act 20 of 1964.] (State Commandant), [Words substituted for the words 'Provincial Commandant' by W.B. Act 7 of 1976, w.e.f. 26.1.1950.] a Deputy Provincial Commandant, a Unit Commandant, or a District Superintendent of Police, if authorised by the State Government in this

behalf, may at any time call upon in such manner and through such officer as may be prescribed, any volunteer for discharging anywhere in West Bengal any functions assigned to him by or under this Act.(1)The Commissioner of Police in Calcutta and the District Magistrate elsewhere may at any time call upon, in such manner and through such officer as may be prescribed, any volunteer in their respective jurisdictions, for discharging any functions assigned to him by or under this Act.(2)Any authority specified in sub-section (1) may at any time call upon the District or Unit Commandant, in such manner as may be prescribed, to mobilise any unit or a detachment of a unit under its jurisdiction for the purpose of maintenance of law and order.(3)Whenever the services of any volunteer or a unit or the detachment of a unit are requisitioned, the requisitioning authority shall communicate the action taken by it to such authority as may be prescribed.

11. Powers, privileges and protection of the Force. -

(1)A volunteer, when called upon for duty under [sub-section (a1) or] [Words, figures, letter and brackets inserted by W.B. Act 54 of 1950.] sub-section (1) of section 10, shall have the same powers, privileges and protection as a Police Officer appointed under any Act for the time being in force.(2)No prosecution shall be instituted against an officer or a subordinate other rank or a volunteer in respect of anything, done or purported to be done in exercise of his powers or in the discharge of his duties as such, except with the previous sanction of the Commissioner of Police in Calcutta or the District Magistrate elsewhere.

12. Control by officers of the Police Force. -

A volunteer, when called upon for duty under [sub-section (a1) or] [Words, figures, letter and brackets inserted by W.B. Act 54 of 1950.] sub-section (1) of section 10 to aid the Police Force, shall work under the orders of or be under the control of such officers of the Police Force as may be prescribed.

13. Penalties. -

(1)If a volunteer, without sufficient cause, neglects or refuses to obey the orders of any superior authority or officer whom he is bound to obey, or fails to discharge any duty which he is bound to perform under this Act or any rule or regulation thereunder, or deserts his post, or is guilty of any wilful breach or disobedience of any provisions of this Act or of any rule or regulation thereunder, or lawful order made or issued thereunder by a competent authority, he shall be liable to be punished with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees or with both.(2)No prosecution shall be instituted against a volunteer for any offence punishable under sub-section (1), without the previous sanction of the Commissioner of Police in Calcutta or the District Magistrate elsewhere.(3)Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under sub-section (1) shall be cognizable.(4)Without prejudice to the foregoing provisions of this section, it shall also be competent for any prescribed authority to deal with the said offences otherwise than under the said provisions and to award one or more of such punishments as may be prescribed.[* * * * *] [[Section 13A first inserted by W.B. Act 7 of 1976, w.e.f. 29.3.1976, then Omitted by W.B. Act 16

of 1984, which was as under :-'13A. Restrictions respecting right to form association, freedom of speech,etc.- (1) No officer or subordinate other rank referred to in section 6 or volunteer of the Force shall without the express sanction of the State Government or of the authority prescribed in this behalf-(a)be a member of, or be associated in any way with, any trade union, labour union, political association, or with any class of trade unions, labour unions or political associations; or(b)be a member of, or be associated in any way with, any other society, institution, association or organisation that is not recognised as part of the West Bengal National Volunteer Force of which he is an officer or a subordinate other rank referred to in section 6 or a volunteer of the Force or is not of a purely social, recreational or religious nature: or(c)communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in bonafide discharge of his duties or is of a purely literary, artistic or scientific character or is of such nature as may be prescribed.Explanation.-If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b), the decision of the State Government thereon shall be final.(2)No officer or subordinate other rank referred to in section 6 or volunteer shall participate in. or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be prescribed.(3)Any person who contravenes the provisions of sub-sections (1) and (2) shall without prejudice to any other action that may be taken against him be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.'.]]

14. Members of the Force to be public servants. -

An officer or a subordinate other rank or a volunteer acting in the exercise of his powers or in the discharge of his duties under this Act or rules or regulations thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.[14A. Right to form association.-] [Section 14A inserted by W.B. Act 16 of 1984.] The officers or the subordinate other ranks referred to in section 6 or the members of any corps or unit of the Force constituted or formed under section 7 may form association:Provided that there shall be only one association for such officers or subordinate other ranks or members of the corps or units of the Force.

15. Advisory Committees. -

(1)The [State] [Words substituted for the word 'Provincia' by the Adaptation of Laws Order, 1950.] Government may, for the purpose of advising it on all matters of policy connected with the constitution and administration of the Force, constitute a [West Bengal National Volunteer Force Advisory Committee] [Words substituted for the word 'Provincial Advisory Committee' by the Adaptation of Laws Order, 1950.], District Advisory Committee and Unit Advisory Committee.(2)The Committees shall be constituted in such manner and shall perform such functions as may be prescribed.

16. Rules. -

(1)The [State] [Words substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a)the powers and duties [of the Inspector General and] [Words inserted by W.B. Act 20 of 1964.] of officers and subordinate other ranks referred to in section 5 ;(b)the manner and conditions of, and the period for enrolment of a volunteer and the authority by which such enrolment shall be made referred to in sub-section (1) of section 8;(c)the period of preliminary and periodical training referred to in subsection (3) of section 8 [and section 8A] [Words, figure and letter inserted by W.B. Act 19 of 1983.];(d)the form of certificate of discharge referred to in sub-section (4) of section 8, and the authority and conditions referred to in that subsection;(e)the manner in which and the officer through whom a volunteer may be called upon for discharging functions assigned to him by or under this Act;(f)the manner in which a District Commandant or a Unit Commandant may be called upon to mobilize a unit or a detachment of a unit referred to in sub-section (2) of section 10 and the authority to which intimation of such action referred to in the proviso to that sub-section shall be given;(g)the officer of the Police Force under whose order or control a volunteer shall work under section 12;(h)the authority by which and the manner in which offences may be dealt with under sub-section (4) of section 13;[* * * *] [[Clause (hh) first inserted by W.B. Act 7 of 1976, w.e.f. 29.3.1976, then Omitted by W.B. Act 16 of 1984, which was as under:(hh)the authority referred to in sub-section (1), and the other purposes referred to in sub-section (2), of section 13A.']](i)the constitution and the functions of the Advisory Committees referred to in section 15;(j)the medical examination of persons offering themselves for enrolment, the organisation, discipline, training, arms, accoutrements and clothings, conditions of service, powers and duties of the volunteers ; and(k)the remuneration, allowances, gratuities or compensation to be paid to a volunteer or his dependants.

17. Continuance of action taken under West Bengal Ordinance 12 of 1948. -

Any appointment, enrolment or rules made or any Committee constituted or any notification issued or anything done or any action taken or any proceedings commenced in exercise of any power conferred by or under the West Bengal National Volunteer Force Ordinance, 1948, shall, on the said Ordinance ceasing, to be in operation, be deemed to have been made, constituted, issued, done, taken or commenced in exercise of the powers conferred by or under this Act as if this Act had commenced on the 27th day of November, 1948.

18. Power to make regulations. -

The [State Commandant] [Words Substituted for the words 'Provincial Commandant' by W.B. Act 7 of 1976 w.e.f. 26.1.1950.] may make regulations consistent with this Act and the rules made thereunder providing generally for all the details connected with the organisation and personnel of the Force and for the duties, training including courses of training, instructions, clothing, equipment, allowances and leave of persons enrolled.