

The Bihar Home Guards Act, 1947

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Act 20 of 1947

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The Bihar Home Guards Act, 1947Bihar Act 20 of 1947[Governors assent published in the Bihar Gazette, Extraordinary, of the 11th December, 1947.]An Act to Provide for the Constitution of Home Guards in the Province of BiharWhereas it is expedient to provide a volunteer organisation to assist in the maintenance of peace and tranquillity of the Province of Bihar and to inculcate habits of self-reliance and discipline among the volunteers and the public in general and to develop in them a sense of civic responsibility;It is hereby enacted as follows:

1. Short title, extent and commencement.

- This Act may be called the Bihar Home Guards Act, 1947.(2)It extends to the whole of the [State] [Substituted by A.L.O.] of Bihar.(3)The [State] [Substituted by A.L.O.] Government may, from time to time, by notification, direct that all or any of the provisions of this Act shall come into force in any local area on such date as may be specified in the notification and may likewise cancel or modify such notifications.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(a)"Home Guard" means a person who is enrolled as such under this Act; and(b)"Prescribed" means prescribed by Rules framed under this Act.

3. Constitution of Home Guards.

(1)The [State] [Substituted by A.L.O.] Government shall constitute in such manner as may be prescribed for each of the areas specified in a notification under sub-section (3) of Section 1, Home Guards who shall discharge such functions in relation to the protection of persons, the security of property or public safety in any area within the [State] [Substituted by A.L.O.] of Bihar as may be assigned to them in accordance with the provisions of this Act and the Rules made

thereunder.(2)The Home Guards in the [State] [Substituted by A.L.O.] of Bihar shall for the purposes of this Act be deemed to be a single force and the members thereof shall be formally enrolled; and such force shall consist of such number of officers and men, and their qualifications and conditions of training and service shall be such as may be prescribed.(3)A Home Guard shall, on enrolment, make a declaration in the form specified in the First Schedule and receive a certificate of appointment in the form specified in the Second Schedule, under the seal and signature of such officer as may be prescribed, by virtue of which the person holding such certificate shall be vested with the powers and privileges of a Home Guard.

4. Calling out Home Guards.

- The District Magistrate having jurisdiction over any area in which this Act is in force 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.

5. Control by officers of police force.

- A Home Guard, when called out under Section 4 in aid of the police force, shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed.

6. Power 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 4 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 a Home Guard, except with the previous sanction of the District Magistrate having jurisdiction over the area in which the Home Guard has been raised.

7. Control over Home Guard.

- The general superintendence, direction and control of the Home Guards constituted for any area, shall vest in and shall be exercised by the District Magistrate having jurisdiction over the area in which the Home Guards have been raised assisted by the Superintendent of Police or such officer as may be appointed by the [State] [Substituted by A.L.O.] Government.

8. Period of service and, discharge.

(1)Subject to any Rules made in this behalf, a Home Guard shall be required to serve the [State] [Substituted by A.L.O.] Government for a period of twelve months (including the period spent overtraining) which period may be extended by the [State] [Substituted by A.L.O.] Government to such further period as it may consider necessary, and the Home Guard shall thereafter serve in the

reserve force for a period of three years and, while in the reserve, shall be liable to be called out for duty at any time.(2)Every Home Guard shall be entitled to receive his discharge from the Home Guards on the expiration of the period specified in sub-section (1); but any such person may before he becomes so entitled be discharged by such authority and subject to such conditions as may be prescribed.(3)A Home Guard shall, within ten days of his discharge under sub-section (2), surrender the certificate of appointment granted to him under sub-section (3) of Section 3 to such authority as may be prescribed.

9. Application of the Police Act, 1861.

- A Home Guard, when on duty as such, shall, in so far as such duty is not inconsistent with this Act, be mutatis mutandis subject to the Police Act, 1861.

10. Penalties.

(1)If a Home Guard-(a)fails to report himself when called out for duty under Section 4, or(b)without sufficient excuse neglects or refuses to obey any lawful order or direction given to him for the performance of his duties or fails to discharge his functions as a member of the Home Guards while on duty, or(c)deserts his duty, or(d)is guilty of cowardice or offers any unwarrantable personal violence to any person in his custody, or(e)fails within ten days to surrender his certificate of appointment granted under sub-section(3) of Section 3,he shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees or with both.(2)An offence punishable under sub-section (1) shall be cognizable.

11. Uniforms.

- A Home Guard shall wear such uniform as may be prescribed.

12. 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.

13. Power to make Rules.

(1)The [State] [Substituted by A.L.O.] Government may, subject to the condition of previous publication, 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 organisation, appointment, qualifications, 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 under-go training, and(c)the exercise by a Home Guard of any of the powers exercisable under Section 6.The First Schedule[See Section 3

(3)]I.....son of.....resident of.....do hereby solemnly declare and affirm that I will truly serve as a member of Home Guards for a period of twelve months from the date of enrolment including the period spent over training (which periods may be extended at the discretion of the [State] [Substituted by A. L. O.] Government) and that I further undertake to serve as a member of the Home Guards at any time or at any place during a further period of three years if I am called out for duty during such period. I shall to the best of my skill and knowledge discharge the duties of member of the Home Guards. Signature.....Address.....The Second Schedule[See Section 3 (3)]Form of Certificate of AppointmentName.....son of.....resident of.....has been appointed a member of the Home Guards under Section 3 (3) of the Bihar Home Guards Act, 1947. When lawfully on duty, he shall have the same powers, privileges and protection as an officer of police appointed under any enactment for the time being in force. Date of appointment.....Place.....Date.....Signature and seal of the Prescribed Authority.