

F.No.11(1)/2014-L.I
Government of India
Ministry of Law and Justice
Legislative Department

4th Floor, Shastri Bhawan
New Delhi, the 8th December, 2014

OFFICE MEMORANDUM

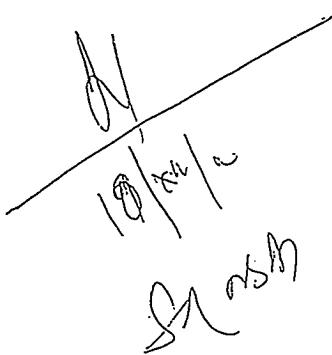
Subject:-Proposal to Repeal the Amending Acts -regarding

The undersigned is directed to refer to the Ministry of Home Affairs OM No. II/15011/5/2014-NSA, dated 1st December, 2014 regarding the subject cited above and to forward herewith a copy of the National Security Act, 1980 (65 of 1980) modified up to 1st December, 2014, as requested by the Ministry of Home Affairs for taking necessary action in the matter.

Encl.: As above.


(K.V.Kumar)
Deputy Legislative Counsel
Tel. No.23389687

Ministry of Home Affairs,
IS-II Division, NSA-Section,
[Kind Attn.: Shri Ashish V. Gawai, US],
NDCC-II Building, 2nd Floor,
Jai Singh Road,
New Delhi-110001.



F.No.1(19)/2014-Pub.
Government of India
Ministry of Law and Justice
Legislative Department
Publication Section

...
New Delhi, the 2nd December, 2014.

NOTE

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Subject:- Modified Edition of National Security Amendment Act, 1980 (65 of 1980).

Legislative-1 Section may kindly refer to their Dy. No. 2017/2014/L.1(LD) dated 1st December, 2014 on the subject cited above.

2. A copy of National Security Amendment Act, 1980 (65 of 1980) as modified upto 1st December, 2014 is enclosed herewith for necessary action.

Renu Sinha
(Renu Sinha) 5/12/14
Assistant Legislative Counsel
(Branch Officer)

Encl: As above.

Legislative-1 Section

Renu Sinha
5/12/14

Sh. Gangesh

Ministry of Law and Justice
Publication Section
Circular No. 05/12/14
2087 05/12/14



THE NATIONAL SECURITY ACT, 1980

(65 OF 1980)

(As modified up to the 1st December, 2014)

GOVERNMENT OF INDIA

Ministry of Law and Justice

LIST OF AMENDING ACTS

1. The National Security (Amendment) Act, 1984 (24 of 1984).
2. The National Security (Amendment) Act, 1984 (60 of 1984).
3. The National Security (Amendment) Act, 1985 (23 of 1985).
4. The National Security (Amendment) Act, 1987 (27 of 1987).
5. The National Security (Amendment) Act, 1988 (43 of 1988)

LIST OF ABBREVIATIONS USED

Cl.	<i>for</i> Clause.
Ins.	" Inserted.
Ord.	" Ordinance.
P.	" Page.
Pt.	" Part.
Reg.	" Regulation.
Rep.	" Repealed.
S.	" Sections.
s.	" section.
Sch.	" Schedule.
Subs.	" Substituted.
w.e.f.	" with effect from.

THE NATIONAL SECURITY ACT, 1980

No. 65 of 1980

[27th December, 1980]

An Act to provide for preventive detention in certain cases and for matters connected therewith.

BE it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

1. Short title and extent.—(1) This Act may be called the National Security Act, 1980.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means, as respects a detention order made by the Central Government or a person detained under such order, the Central Government, and as respect a detention order made by a State Government or by an officer subordinate to a State Government or as respects a person detained under such order, the State Government;

(b) "detention order" means an order made under section 3;

(c) "foreigner" has the same meaning as the Foreigners Act, 1946 (31 of 1946);

(d) "person" includes a foreigner;

(e) "State Government", in relation to a Union territory, means the administrator thereof.

3. Power to make orders detaining certain persons.—(1) The Central Government or the State Government may,—

(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India, or

(b) if satisfied with respect to any foreigner that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India,

it is necessary so to do, make an order directing that such person be detained.

(2) The Central Government or the State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do, make an order directing that such person be detained.

Explanation.—For the purposes of this sub-section, "acting in any manner prejudicial to the maintenance of supplies and services essential to the community" does not include "acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community" as defined in the Explanation to sub-section (1) of section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (7 of 1980), and accordingly, no order of detention shall be made under this Act on any ground on which an order of detention may be made under that Act.

(3) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it may, by order in writing, direct, that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (2), exercise the powers conferred by the said sub-section:

Provided that the period specified in an order made by the State Government under this sub-section shall not, in the first instance, exceed three months, but the State Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.

(4) When any order is made under this section by an officer mentioned in sub-section (3), he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such

National Security

(b) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order.

(2) Upon the making of a report against any person under clause (a) of sub-section (1), the provisions of sections 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply in respect of such person and his property as if the detention order made against him were a warrant issued by the Magistrate.

(3) If any person fails to comply with an order issued under clause (b) of sub-section (1) he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under sub-section (3) shall be cognizable.

8. Grounds of order of detention to be disclosed to persons affected by the order.—(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

9. Constitution of Advisory Boards.—(1) The Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of three persons who are, or have been, or are qualified to be appointed, as Judges of a High Court, and such persons shall be appointed by the appropriate Government.

(3) The appropriate Government shall appoint one of the members of the Advisory Board who is, or has been, a Judge of a High Court to be its Chairman, and in the case of a Union territory, the appointment to the Advisory Board of any person who is a Judge of the High Court of a State shall be with the previous approval of the State Government concerned.

10. Reference to Advisory Board.—Save as otherwise expressly provided in this Act, in every case where a detention order has been made under this Act, the appropriate Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer mentioned in sub-section (3) of section 3, also the report by such officer under sub-section (4) of that section.

11. Procedure of Advisory Board.—(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within seven weeks from the date of detention of the person concerned.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board; and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

12. Action upon the report of the Advisory Board.—(1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

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(2) In the case of any person to whom sub-section (1) applies, sections 3, 8 and 10 to 14 shall have effect subject to the following modifications, namely:—

(a) in section 3,—

(i) in sub-section (4), in the proviso,—

(A) for the words "ten days", the words "fifteen days" shall be substituted;

(B) for the words "fifteen days" the words "twenty days" shall be substituted;

(ii) in sub-section (5), for the words "seven days", the words "fifteen days" shall be substituted;

(b) in section 8, in sub-section (1), for the words "ten days", the words "fifteen days" shall be substituted;

(c) in section 10, for the words "shall, within three weeks", the words "shall, within four months and two weeks" shall be substituted;

(d) in section 11,—

(i) in sub-section (1), for the words "seven weeks", the words "five months and three weeks" shall be substituted;

(ii) in sub-section (2), for the words "detention of the person concerned", the words "continued detention of the person concerned" shall be substituted;

(e) in section 12, for the words "for the detention", at both the places where they occur, the words "for the continued detention" shall be substituted;

(f) in section 13, for the words "twelve months", the words "two years" shall be substituted;

(g) in section 14, in the proviso to sub-section (2), for the words "twelve months" the words "two years" shall be substituted.]

15. Temporary release of persons detained.—(1) The appropriate Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

(2) In directing the release of any person under sub-section (1), the appropriate Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person, fails without sufficient cause, to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

16. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Central Government or a State Government, and no suit, prosecution or other legal proceeding shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Act.

17. Act not to have effect with respect to detentions under State laws.—(1) Nothing in this Act shall apply or have any effect with respect to orders of detention, made under any State law, which are in force immediately before the commencement of the National Security Ordinance, 1980 (Ord. 11 of 1980), and accordingly every person in respect of whom an order of detention made under any State law is in force



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 2021]

नई दिल्ली, शुक्रवार, 12 अगस्त 2016/श्रावण 21, 1938

No. 2021]

NEW DELHI, FRIDAY, AUGUST 12, 2016/SRAVANA 21, 1938

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 10 अगस्त, 2016

का.आ. 2700(अ).—केंद्रीय सरकार राष्ट्रीय सुरक्षा अधिनियम, 1980 (1980 का 65) की धारा 9 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सलाहकार बोर्ड का गठन करती है और निम्नलिखित व्यक्तियों को उक्त बोर्ड का अध्यक्ष और सदस्य नियुक्त करती है अर्थात् :—

- | | |
|--|-----------|
| 1. माननीय न्यायमूर्ति श्री संजीव खन्ना | —अध्यक्ष; |
| 2. माननीय न्यायमूर्ति श्री जयंत नाथ | —सदस्य; |
| 3. माननीय न्यायमूर्ति श्रीमती संगीता धींगरा सहगल | —सदस्य. |

[फा. सं. II/15011/07/2015-एन.एस.ए.]

मुकेश मित्तल, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 10th August, 2016

S.O. 2700(E).—In exercise of the powers conferred by Section 9 of the National Security Act, 1980 (65 of 1980), the Central Government hereby constitutes the Advisory Board and appoints the following persons as Chairman and Members of the said Board or, namely:—

- | | |
|---|-------------|
| 1. Hon'ble Mr. Justice Sanjiv Khanna | — Chairman; |
| 2. Hon'ble Mr. Justice Jayant Nath | — Member; |
| 3. Hon'ble Ms. Justice Sangita Dhingra Sehgal | — Member. |

[F. No. II/15011/07/2015-NSA]

MUKESH MITTAL, Jt. Secy.

THE NATIONAL SECURITY GUARD ACT, 1986

(47 of 1986)

{22nd September, 1986}

An Act to provide for the constitution and regulation of an armed force of the Union for combating terrorist activities with a view to protecting States against internal disturbance and for matters connected therewith.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows: -

CHAPTER-I

PRELIMINARY

1. Short title and commencement.

- (1) This Act may be called the National Security Guard Act, 1986.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- (1) In this Act, unless the context otherwise requires, -
 - (a) "active duty", in relation to a person subject to this Act, means any duty as a member of the Security Guard during the period in which such person is attached to or forms part of, a unit of the Security Guard-
 - (i) Which is engaged in operations against terrorists or any person in arms against the Union; or
 - (ii) Which is operating at a picket or engaged on patrol or any other duty, in relation to combating terrorist activity;

- (b) “Assistant Commander” means a person appointed or in pay as an Assistant Commander Grade I, Assistant Commander Grade II or Assistant Commander Grade III;
- (c) “civil offence” means an offence which is triable by a Criminal Court or by a special Judge appointed under the Criminal Law Amendment Act, 1952;
- (d) “civil prison” means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894, or under any other law for the time being in force;
- (e) “Combatised tradesman” means a person appointed or in pay as a combatised tradesman;
- (f) “Commander”, when used in any provision of this Act with reference to any unit of the Security Guard, means the officer whose duty it is to discharge with respect to that unit, the functions of a Commander in regard to matters of the description referred to in that provision;
- (g) “Criminal Court” means a Court of ordinary criminal justice in any part of India and includes a Court of a special Judge appointed under the Criminal Law Amendment Act, 1952;
- (h) “Deputy Inspector-General” means a Deputy Inspector-General of the Security Guard appointed under section 5;
- (i) “Director-General” and Additional Director-General” mean, respectively, the Director-General and an Additional Director-General of the Security Guard appointed under section 5;
- (j) “Group” means a unit of the Security Guard constituted as a Group by the Central Government;
- (k) “Group Commander” means a Group Commander of the Security Guard appointed under section 5;
- (l) “Inspector-General” means an Inspector-General of the Security Guard appointed under section 5;

- (m) “Judge Attorney-General”, “Additional Judge Attorney General”, “Deputy Judge Attorney General” and “Judge Attorney” mean, respectively, the Judge Attorney-General, an Additional Judge Attorney-General a Deputy Judge Attorney-General and a Judge Attorney of the Security Guard appointed in the appropriate rank by the Central Government;
- (n) “member of the Security Guard” means an officer, an Assistant Commander, a Ranger or a combatised tradesman;
- (o) “notification” means a notification published in the Official Gazette;
- (p) “offence” means any act or omission punishable under this Act and includes a civil offence;
- (q) “officer” means a person appointed or in pay as an officer of the Security Guard;
- (r) “prescribed” means prescribed by rules;
- (s) “Ranger” means a Ranger Grade I and a Ranger Grade II of the Security Guard;
- (t) “rule” means a rule made under this Act;
- (u) “Security Guard” means the National Security Guard;
- (v) “Security Guard Court” means a Court referred to in section 61;
- (w) “Security Guard custody’ means the arrest or confinement of a member of the Security Guard according to rules;
- (x) “superior officer”, when used in relation to a person subject to this Act, means-
 - (i) any member of the Security Guard to whose command such person is for the time being subject in accordance with the rules;
 - (ii) any officer of a higher rank or class,

and includes, when such person is not an officer, an Assistant Commander or a Ranger of a higher rank or class;

- (y) “terrorist” means any person who, with intent to over-awe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people, does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or as is likely to cause, death of, or injuries to, any person or persons or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community;
- (z) all words and expressions used and not defined in this Act but defined in the Indian Penal Code shall have the meanings respectively assigned to them in that Code.

(2) In this Act, references to any law not in force in any State shall be construed as references to the corresponding law in force in that State.

3. Persons subject to this Act.

(1) The following persons appointed (whether on deputation or in any other manner) in the Security Guard shall be subject to this Act, wherever they may be, namely: -

- (a) officers and Assistant Commanders; and
- (b) Rangers and combatised tradesmen.

(2) Every person subject to this Act shall remain so subject until repatriated, retired, released, discharged, removed or dismissed from the Security Guard in accordance with the provisions of this Act and the rules.

CHAPTER II

CONSTITUTION OF THE SECURITY GUARD AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE SECURITY GUARD

4. Constitution of the Security Guard.

(1) There shall be an armed force of the Union called the National Security Guard for combating terrorist activities with a view to protect States against internal disturbances.

(2) Subject to the provisions of this Act, the Security Guard shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Security Guard shall be such as may be prescribed.

5. Control, direction, etc.

(1) The general superintendence, direction and control of the Security Guard shall vest in, and be exercised by, the Central Government and subject thereto and to the provisions of this Act and the rules, the command and supervision of the Security Guard shall vest in an officer to be appointed by the Central Government as the Director-General of the Security Guard.

(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Additional Directors-General, Inspectors-General, Deputy Inspectors-General, Group Commanders and other officers as may be appointed by the Central Government.

6. Liability for service outside India.

Every member of the Security Guard shall be liable to serve in any part of India as well as outside India.

7. Resignation and withdrawal from the post.

No member of the Security Guard shall be at liberty-

- (a) to resign his appointment during the term of his engagement; or

(b) to withdraw himself from all or any of the duties of his appointment, except with the previous permission in writing of the prescribed authority.

8. Tenure of service under the Act.

Every person subject to this Act shall hold office during the pleasure of the President.

9. Termination of service by Central Government.

Subject to the provisions of this Act and the rules, the Central Government may dismiss or remove from service any person subject to this Act.

10. Dismissal, removal or reduction by the Director-General and by other officers.

(1) The Director-General, any Additional Director-General or any Inspector-General may dismiss or remove from service or reduce to a lower grade or rank or the ranks, any person subject to this Act other than an officer.

(2) An officer not below the rank of a Deputy Inspector-General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or an Assistant Commander.

(3) Any such officer as is mentioned in sub-section (2) may reduce to a lower grade or rank or the ranks any person under his command except an officer or an Assistant Commander.

(4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules.

11. Certificate of termination of service.

An Assistant Commander or a Ranger or a combatised tradesmen who is retired, released, discharged, removed or dismissed from the service shall be furnished by the officer to whose command he is subject, with a certificate setting forth-

(a) the authority terminating his service;

- (b) the cause for such termination; and
- (c) the full period of his service in the Security Guard.

12. Restrictions respecting right to form associations, freedom of speech, etc.

(1) No person subject to this Act shall, without the previous sanction in writing of the Central Government or of the prescribed authority,-

- (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 society, institution, association or organization that is not recognized as part of the Security Guard 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 the bona fide discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation- If any question arises as to whether any society, institution, association or organization is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government thereon shall be final.

(2) No person subject to this Act shall participate in, or address, any meeting or take part in any demonstration organized by any body of persons for any political purposes or for such other purposes as may be prescribed.

13. Remedy of aggrieved persons other than officers.

(1) Any person subject to this Act other than an officer who deems himself wronged by any superior or other officer may, complain to the officer under whose command he is serving.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complaint; or when necessary, refer the complaint to a superior authority.

(4) The Director-General may revise any decision made under any of the foregoing sub-sections, but, subject thereto, such decision shall be final.

14. Remedy of aggrieved officers.

Any officer who deems himself wronged by his Commander or any other superior officer and who, on due application made to his Commander or such other superior officer, does not receive the redress to which he considers himself entitled, may complain to the Director-General or the Central Government through proper channel.

CHAPTER III

OFFENCES

15. Offences in relation to the terrorists and other persons in arms against the Union and punishable with death.

Any person subject to this Act who commits any of the following offences, that is to say,-

- (a) Shamefully abandons place of his duty or misbehaves in such manner as to show cowardice during operations;
- (b) Treacherously holds correspondence with, or communicates intelligence to a terrorist or any person in arms against the Union; or
- (c) directly or indirectly assists any terrorist with money, arms, ammunition, stores or supplies or in any other manner whatsoever; or
- (d) knowingly does any act calculated to imperil the success of the Security Guard or the military, naval, air forces or any other armed

force of India or any forces co-operating therewith or any part of such forces,

shall, on conviction by a Security Guard Court, be liable to suffer death or such less punishment as is in this Act mentioned.

16. Offence punishable more severely on active duty than at other times.

Any person subject to this Act who commits any of the following offences, that is to say,-

- (a) forces a safeguard, or forces or uses criminal force to a sentry; or
- (b) breaks into any house or other place in search of plunder; or
- (c) being a sentry sleeps upon his post, or is drunk; or
- (d) without orders from his superior officer leaves his guard, picket, patrol or post,

shall, on conviction by a Security Guard Court,-

- (i) if he commits any such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and
- (ii) if he commits any such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

17. Mutiny.

Any person subject to this Act who commits any of the following offences, that is to say,-

- (a) begins, incites, causes or conspires with any other person to cause any mutiny in the Security Guard or in the military, naval, air forces or any other armed force of India or any forces co-operating therewith; or
- (b) joins in any such mutiny; or

- (c) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or
- (d) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his Commander or other superior officer; or
- (e) Endeavors to seduce any person in the Security Guard or in the military, naval, air forces or any other armed force of India or any forces co-operating therewith from his duty or allegiance to the Union,

shall, on conviction by the Security Guard Court, be liable to suffer death or such less punishment as is in this Act mentioned.

18. Deserter and aiding deserter.

- (1) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by a Security Guard Court,-
 - (a) If he commits the offence when on active duty or when under orders for active duty, be liable to suffer death or such less punishment as in this Act mentioned: and
 - (b) If he commits the offence under any other circumstances, be liable to suffer imprisonment for a term, which may extend to seven years or such less punishment as is in this Act mentioned.
- (2) Any person subject to this Act who knowingly harbours any such deserter shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.
- (3) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

- (4) For the purpose of this Act, a person deserts, -
 - (a) If he absents from his Unit or the place of duty at any time which the intention of not reporting back to such Unit or place, or who, at any time and under any circumstances when absent from his Unit or place of duty, does any Act which shows that he has an intention of not reporting to such Unit or place of duty;
 - (b) If he absents himself without leave with intent to avoid any active duty.

19. Absence without leave.

Any person subject to this Act who commits any of the following offences, that is to say, --

- (a) Absent himself without leave: or
- (b) Without sufficient cause overstays leave granted to him: or
- (c) Being on leave of absence and having received information from the appropriate authority that any Unit or part thereof to which he belongs, has been ordered on active duty, fails, without sufficient cause to rejoin without delay: or
- (d) Without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty: or
- (e) When on parade, or on the line of march, without sufficient cause or without leave from his superior officers, quits the parade or line of march: or
- (f) When in camp or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer: or
- (g) Without leave from his superior officer or without due cause absents himself from any school when duly ordered to attend there,

Shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term, which may extend to three years or such less punishment as is in this Act mentioned.

20. Striking or threatening superior officer.

Any person subject to this Act who commits any of the following offences, that is to say,-

- (a) uses criminal force to or assaults his superior officer: or
- (b) uses threatening language to such officer: or
- (c) uses insubordinate language to such officer,

Shall on conviction by a Security Guard Court –

- i) if such officer is at the time in the execution of his office or, if the offence is committed on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned : and
- ii) In other cases, be liable to suffer imprisonment for a term which may extend to ten years of such less punishment as is in this Act mentioned:

Provided that in the case of any offence specified in clause (c) the imprisonment shall not exceed five years.

21. Disobedience to superior officer.

(1) Any person subject to this Act who disobey, in such manner as to show a willful defiance of authority, any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years of such less punishment as is in this Act mentioned.

22. Assault and obstruction.

Any person subject to this act who commits any of the following offences, that is to say, -

- (a) being concerned in any quarrel, affray or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to assaults any such officer: or
- (b) uses criminal force to, or assaults any person, whether subject to this act or not, in whose custody he is lawfully placed, and whether he is or is not his superior: or
- (c) resists an escort whose duty it is to apprehend him or have him in charge : or
- (d) breaks out of barracks, camp or quarters: or
- (e) refuses to obey any general, local or other order,

Shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend in the case of offences specified in clauses (d) and (e), to two years, and in the case of offences specified in the other clauses, to ten years, or in either case such less punishment as is in this Act mentioned.

23. Certain forms of disgraceful conduct.

Any person subject to this Act who commits any of the following offences, that is to say, -

- (a) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind: or

- (b) malingers or feigns or produces diseases or infirmity in himself or intentionally delays his cure or aggravates his diseases or infirmity :or
- (c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

Shall, on conviction by a security Guard Court, be liable to suffer imprisonment for a term, which may extend to seven years or such less punishment as is in this Act mentioned.

24. Ill-treating a subordinate.

Any officer, Assistant Commander or Ranger Grade I who uses criminal force to, or otherwise ill-treats, any person subject to this Act, being his subordinate in rank or position, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

25 Drunkenness.

(1) Any person subject to this Act, who is found in a state of drunkenness, whether on duty or not, shall, on conviction by a Security Guard Court be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

(2) For the purpose of sub section (1) a person shall be deemed to be in a state of drunkenness if, owing to the influence of alcohol or any drug whether along or in combination with any other substance, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform or behaves in a disorderly manner or in a manner likely to bring discredit to the Security Guard.

26. Permitting escape of person in custody.

Any person subject to this Act who commits any of the following offences, that is to say, -

- (a) when in command of a guard, picket, patrol, detachment or post, releases without proper authority, whether willfully or without

reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; or

- (b) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by a Security Guard Court, be liable, if he has acted willfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has not acted willfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

27. Irregularity in connection with arrest or confinement.

Any person subject to this Act who commits any of the following offences, that is to say.-

- (a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or
- (b) having committed a person to Security Guard custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to one year or such less punishment as is in this Act mentioned.

28. Escape from custody.

Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

29. Offences in respect of property.

Any person subject to this Act who commits any of the following offences, that is to say, -

- (a) commits theft of any property belonging to the Government, or to any Security Guard mess, band or institution, or to any person subject to this Act; or
- (b) dishonestly misappropriates or converts to his own use any such property; or
- (c) commits criminal breach of trust in respect of any such property; or
- (d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reason to believe the commission of such offence; or
- (e) wilfully destroys or injures any property of the Government entrusted to him; or
- (f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

30. Extortion and exaction.

Any person subject to this Act who commits any of the following offences, that is to say,-

- (a) commits extortion; or
- (b) without proper authority exacts from any person money, provisions or service,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

31. Making away with equipment.

Any person subject to this Act who commits any of the following offences, that is to say, -

- (a) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or
- (b) loses by neglect anything mentioned in clause (a); or
- (c) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clause (a), to ten years, and in the case of the offences specified in the other clauses, to five years, or in either case such less punishment as is in this Act mentioned.

32. Injury to property.

Any person subject to this Act who commits any of the following offences, that is to say,-

- (a) destroys or injures any property mentioned in clause (a) of section 31, or any property belonging to any Security Guard mess, band or institution, or to any person subject to this Act; or
- (b) commits any act which causes damage to, or destruction of, any property of the Government by fire or in any other manner whatever; or
- (c) kills, injures, makes away with, ill-treats or loses, any animal entrusted to him,

shall, on conviction by a Security Guard Court, be liable, if he has acted willfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

33. False accusations.

Any person subject to this Act who commits any of the following offences, that is to say, -

- (a) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or
- (b) in making a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and willfully suppresses any material fact,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

34. Falsifying official documents and false declarations.

Any person subject to this Act who commits any of the following offences, that is to say,-

- (a) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or
- (b) in any document of the description mentioned in clause (a) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or
- (c) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

- (d) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or
- (e) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

35. False declaration on appointment.

Any person having become subject to this Act who is discovered to have made at the time of appointment a willfully false statement or declaration in connection with his appointment, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

36. Offences relating to Security Guard Court.

Any person subject to this Act who commits any of the following offences, that is to say, -

- (a) being duly summoned or ordered to attend as a witness before a Security Guard Court, willfully or without reasonable excuse, makes default in attending; or
- (b) refuses to take an oath or make an affirmation legally required by a Security Guard Court to be taken or made; or
- (c) refuses to produce or deliver any document in his power or control legally required by a Security Guard Court to be produced or delivered by him; or

- (d) refuses, when a witness, to answer any question which he is by law bound to answer; or
- (e) is guilty of contempt of the Security Guard Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

37. False evidence.

Any person subject to this Act who, having been duly sworn or affirmed before any Security Guard Court, or before any officer competent under this Act to administer oath or affirmation or before a Court of inquiry constituted under this Act, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

38. Unlawful detention of pay.

Any officer, Asst. Commander or Ranger Grade I who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

39. Unbecoming conduct.

Any officer or Assistant Commander who behaves in a manner unbecoming of his position and the character expected of him shall, on conviction by a Security Guard Court, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

40. Violation of good order and discipline.

Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline of the

Security Guard Court shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

41. Miscellaneous offences.

Any person subject to this Act who commits any of the following offences, that is to say, -

- (a) being in command of any detachment or post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has caused disturbance at any public place, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority: or
- (b) by defiling any place of worship, or otherwise or intentionally insults the religion, or wounds the religious feelings of any person : or
- (c) attempts to commit suicide, and in such attempt does any act towards commission of such offence : or
- (d) being below the rank of an Assistant Commander, when off duty, appears without proper authority, in or about camp, or in or about, or when going to, or returning from, any town carrying a rifle, sword or other offensive weapon: or
- (e) directly or indirectly accepts or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person any gratification as a motive or reward for procuring the appointment of any person or leave of absence, promotion or any other advantage or indulgence for any person in the service; or
- (f) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving,

shall , on conviction by a Security Guard Court , be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

42. Attempt.

Any person subject to this Act who attempts to commit any of the offences specified in sections 15 to 41 (both inclusive) and in such attempt does any act towards the commission of the offence shall, on conviction by a Security Guard Court, where no express provision is made by this Act for the punishment of such attempt, be liable, -

- (a) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and
- b) If the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

43. Abetment of offences that have been committed.

Any person subject to this Act who abets the commission of any of the offences specified in sections 15 to 41 (both inclusive) shall, on conviction by a Security Guard Court, if the act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as in this Act mentioned.

44. Abetment of offences that have not been committed.

(1) Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 15, 17 and sub section (1) of 18 shall, on conviction by a Security Guard Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who abets the commission of any of the offences specified in sections 15 to 41 (both inclusive) and punishable with imprisonment shall, on conviction by a Security Guard Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term

which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

45. Civil offences.

Subject to the provisions of section 46, any person subject to this Act who at anyplace in, or beyond, India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a Security Guard Court and, on conviction, be punishable as follows, that is to say, -

- (a) If the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer any punishment assigned for the offence, by the aforesaid law and such less punishment as in this Act mentioned; and
- (b) in any other case, he shall be liable to suffer any punishment, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

46. Civil offences not triable by a Security Guard Court.

A person subject to this Act who commits an offence of murder or of culpable homicide not amounting to murder against, or a rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence under this Act and shall not be tried by a Security Guard Court, unless he commits any of the said offences,-

- (a) While on active duty; or
- (b) At anyplace outside India.

CHAPTER IV

PUNISHMENTS

47. Punishments awardable by Security Guard Courts.

(1) punishment may be inflicted in respect of offences committed by persons subject to this Act and convicted by Security Guard Courts according to the scale following that is to say, -

- (a) death;
- (c) Imprisonment which may be for the term of life or any other lesser term but excluding imprisonment for a term, not exceeding three months in Security Guard Custody;
- (c) Dismissal from the service;
- (d) Imprisonment for a term not exceeding three months in Security Guard Custody;
- (e) Reduction to the ranks or to a lower rank or grade in the case of Ranger Grade-I;
- (f) Forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion where promotion depends upon length of service;
- (g) forfeiture of service for the purpose of increment or pension or other prescribed purpose ;
- (h) Severe reprimand or reprimand except in the case of persons below the rank of Ranger Grade I;
- (i) forfeiture in the case of a person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;
- (j) deduction from pay an allowances to make good any proved loss or damage occasioned by the offence for which he is convicted.

(2) Each of the punishments specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

48. Alternative punishments awardable by Security Guard Courts.

Subject to the provisions of this Act, a Security Guard Court may, on convicting a person subject to this Act of any of the offences specified in sections 15 to 44 (both inclusive) award either the particular punishment with which the offence is stated in the said sections to be punishable or, in lieu thereof, any one of the punishments lower in the scale set out in section 47 regard being had to the nature and degree of the offence.

49. Combination of punishments.

A sentence of a Security Guard Court may award in addition to, or without any one other punishment, the punishment specified in clause (c) of sub-section (1) of section 47 and any one or more of the punishments specified in clauses (e) to (j) (both inclusive) of that sub-section.

50. Punishments otherwise than by Security Guard Courts.

Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a Security Guard Court in the manner stated in sections 51 and 53.

51. Minor punishments.

(1) Subject to the provisions of section 52, a Commander of and above the rank of a Group Commander may, in the prescribed manner proceed against a person subject to this Act other than an officer or an Assistant Commander, who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say, -

- (a) imprisonment in Security Guard custody up to twenty-eight days;
- (b) detention up to twenty-eight days;
- (c) confinement to the lines up to twenty-eight days;

- (d) extra guards or duties;
 - (e) deprivation of any acting rank provided such rank has not been held by him for more than two years;
 - (f) severe reprimand or reprimand;
 - (g) deductions from his pay and allowances of any sum required to make good any loss or damage occasioned by the offence for which he is punished.
2. If a group is being temporarily commanded by an officer of the rank of a Squadron Commander or a Team Commander, such officer shall have full powers of a Commander as specified in sub-section (1).

3. Subject to the provisions of section 52, a Squadron Commander or a Team Commander commanding a squadron or a team or any detachment shall have the power to proceed against a person subject to this Act, other than an officer or an Assistant Commander, who is charged with an offence under this Act and award such person to the extent prescribed one or more of the punishments specified in clauses (a) to (d) and (g) or sub-section (1) provided that the maximum limit of punishment awarded under each of the clauses (a), (b) and (c) shall not exceed fourteen days.

52. Limit of punishments under section 51.

(1) In the case of an award of two or more of the punishments specified in clauses (a), (b), (c) and (d) of sub-section (1) of section 51, the punishments specified in clause (c) or clause (d) shall take effect only at the end of the punishment specified in clause (a) or clause (b).

(2) When two or more of the punishments specified in the said clauses (a), (b) and (c) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate fifty-six days.

(3) The punishment specified in the said clause (a) (b) and (c) shall not be awarded to any person who is of the rank of Ranger Grade I or was, at the time of committing the offence for which he is punished, of such rank.

(4) The punishment specified in clause (f) of sub-section (1) of section 51 shall not be awarded to any person below the rank of Ranger Grade I.

53. Punishment of officers of or below the rank of Squadron Commanders by officers not below the rank of Inspectors-General.

An officer not below the rank of an Inspector-General may, in the prescribed manner, proceed against an officer of or below the rank of a Squadron Commander, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say, -

- (a) forfeiture of seniority, or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of promotion for a period not exceeding one year, but subject to the right of the accused previous to the award to elect to be tried by a General Security Guard Court;
- (b) Severe reprimand or reprimand;
- (c) Deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

54. Punishment of persons of the rank of Assistant Commander.

(1) An officer not below the rank of a Deputy Inspector-General may, in the prescribed manner, proceed against a person of the rank of an Assistant Commander who is charged with an offence under this Act and award one or more of the following punishment, that is to say,-

- (a) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding one year, but subject to the right of the accused previous to the award to elect to be tried by a General Security Guard Court;
- (b) severe reprimand or reprimand;

- (c) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

- (2) An officer of the rank of a Group Commander may, in the prescribed manner, proceed against a person of the rank of an Assistant Commander who is charged with an offence under this Act and award any one or both of the following punishments, that is to say,-
 - (a) severe reprimand or reprimand;
 - (b) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

CHAPTER – V

ARREST AND PROCEEDINGS BEFORE TRIAL

55. Custody of offenders.

- (1) Any person subject to this Act who is charged with an offence may be taken into Security Guard custody, under the order of any superior officer.

- (2) Notwithstanding anything contained in sub-section (1), an officer may order into Security Guard custody any other officer, though such other officer may be of a higher rank, engaged in a quarrel, affray or disorder.

56. Duty of Commander in regard to detention.

- (1) It shall be the duty of every Commander to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

- (2) The case of every person being detained in custody beyond a period of forty-eight hours, and the reasons therefore, shall be reported by the Commander to the next higher authority.

(3) In reckoning the period of forty-eight hours specified in sub-section (1), Sundays and other public holidays shall be excluded.

(4) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in Security Guard custody, pending the trial by any competent authority for any offence committed by him.

57. Interval between committal and trial.

In every case where any such person as is mentioned in section 55 and as is not on active duty, remains in such custody for a longer period than eight days without a Security Guard Court for his trial being convened, a special report giving reasons for the delay shall be made by his Commander and a similar report shall be forwarded at intervals of every eight days until a Security Guard Court is convened or such person is released from custody.

58. Arrest by civil authorities.

Whenever any person subject to this Act, who is accused of an offence under this Act, is within the jurisdiction of any Magistrate or police officer, such Magistrate or police officer shall aid in the apprehension and delivery to Security Guard custody of such person upon receipt of a written application to that effect signed by his Commander or an officer authorized by the Commander in that behalf.

59. Capture of deserters.

(1) Whenever any person subject to this Act deserts, the Commander of the unit to which he belongs, shall give information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, into Security Guard custody.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

60. Inquiry into absence without leave.

(1) When any person subject to this Act has been absent from duty without due authority for a period of thirty days, a Court of inquiry shall, as soon as practicable, be appointed by an officer not below the rank of a Group Commander under whose command he is for the time being serving and such Court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the Court shall declare such absence and the period thereof and the said deficiency, if any, and transmit the proceedings of the Court of inquiry to the officer who appointed the Court of inquiry, for further action.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

CHAPTER – VI

SECURITY GUARD COURTS

61. Kinds of Security Guard Courts.

For the purposes of this Act there shall be three kinds of Security Guard Courts, that is to say,-

- (a) General Security Guard Courts;
- (b) Petty Security Guard Courts; and
- (c) Summary Security Guard Courts.

62. Power to convene a General Security Guard Court.

A General Security Guard Court may be convened by the Central Government or the Director-General or by any officer empowered in this behalf by warrant of the Director-General.

63. Power to convene a Petty Security Guard Court.

A Petty Security Guard Court may be convened by an officer having power to convene a General Security Guard Court or by an officer empowered in this behalf by warrant of any such officer.

64. Contents of warrants issued under sections 62 and 63.

A warrant, issued under section 62 or section 63 may contain such restrictions, reservations or conditions as the officer issued it may think fit.

65. Composition of General Security Guard Court.

A General Security Guard Court shall consist of not less than five officers.

66. Composition of a Petty Security Guard Court.

A Petty Security Guard Court shall consist of not less than three officers.

67. Summary Security Guard Court.

(1) A Summary Security Guard Court may be held by the Commander of any unit of the Security Guard and he alone shall constitute the Court.

(2) The proceedings shall be attended throughout by two other persons who shall be officers or Assistant Commanders or one of either, and who shall not as such, be sworn or affirmed:

Provided that the persons attending the Court for the trial of an officer shall not be of a rank lower than the rank of that officer unless in the opinion of the convening officer recorded in the convening order, officers of such rank are not, having due regard to the exigencies of public service, available.

68. Dissolution of a Security Guard Court.

(1) If a Security Guard Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(2) If, on account of the illness of the concerned Judge Attorney or, as the case may be, Deputy Judge Attorney-General or Additional Judge Attorney-General

or of the accused before the finding, it is impossible to continue the trial, a Security Guard Court shall be dissolved.

(3) The authority or officer who convened a Security Guard Court may dissolve the same if it appears to it or him that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Security Guard Court.

(4) Where a Security Guard Court is dissolved under this section the accused may be tried again.

69. Powers of a General Security Guard Court.

A General Security Guard Court shall have the power to try any person subject to this Act for any offence punishable there under and to pass any sentence authorised thereby.

70. Powers of a Petty Security Guard Court.

A Petty Security Guard Court shall have the power to try any person subject to this Act other than an officer or an Assistant Commander for any offence made punishable thereunder and to pass any sentence authorized by this Act other than a sentence of death, or imprisonment for a term exceeding two years.

71. Powers of a summary Security Guard Court.

(1) Subject to the provisions of sub-section (2), a Summary Security Guard Court may try any offence punishable under this Act.

(2) When there is no grave reason for immediate action and reference can, without detriment to discipline, be made to the officer empowered to convene a Petty Security Force Court for the trial of the alleged offender, an officer holding a Summary Security Guard Court shall not try without such reference any offence punishable under any of the sections 15, 17 and 45, or any offence against the officer holding the court.

(3) A Summary Security Guard Court may try any person subject to this Act and under the command of the officer holding the Court, except an officer, or an Assistant Commander.

(4) A Summary Security Guard Court may pass any sentence which may be passed under this Act, except the sentence of death or of imprisonment for a term exceeding the limit specified in sub-section (5).

(5) The limit referred to in sub-section (4) shall be,-

(a) one year, if the officer holding the Security Guard Court holds the rank not below that of a Group Commander.

(b) three months, in any other case.

72. Prohibition of second trial.

(1) When any person subject to this Act has been acquitted or convicted of an offence by a Security Guard Court or by a Criminal Court or has been dealt with under section 51 or section 53 or section 54, he shall not be liable to be tried again for the same offence by a Security Guard Court or dealt with under the said sections.

(2) When any person subject to this Act, has been acquitted or convicted of an offence by a Security Guard Court or has been dealt with under section 51 or section 53 or section 54, he shall not be liable to be tried again by a Criminal Court for the same offence or on the same facts.

73. Period of limitation for trial.

(1) Except as provided by sub-section (2), no trial by a Security Guard Court of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(2) The provisions of sub-section (1) shall not apply to a trial for an offence of desertion or for any of the offences mentioned in section 17.

(3) In the computation of the period of time mentioned in sub-section (1), any time spent by such person in evading arrest after the commission of the offence, shall be excluded.

74. Trial etc., of offender who ceases to be subject to this Act.

(1) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and

kept in Security Guard custody and tried and punished for such offence as if he continued to be so subject.

(2) No such person shall be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or for any of the offences mentioned in section 17 or shall affect the jurisdiction of a criminal court to try any offence triable by such court as well as by a Security Guard Court.

75. Application of Act during term of sentence.

(1) When a person subject to this Act is sentenced by a Security Guard Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Security Guard, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(2) When a person subject to this Act is sentenced by a Security Guard Court to death, this Act shall apply to him till the sentence is carried out.

76. Place of trial.

Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whenever.

77. Choice between Criminal Court and Security Guard Court.

When a Criminal Court and a Security Guard Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director-General, or the Inspector-General or the Deputy Inspector-General, within whose command the accused person is serving or such other officer as may be prescribed, to decide before which Court the proceedings shall be instituted, and, if that officer decides that they shall be instituted before a Security Guard Court, to direct that the accused person shall be detained in Security Guard custody.

78. Power of Criminal Court to require delivery of offender.

(1) When a Criminal Court having jurisdiction is of the opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 77 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(2) In every such case, the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the Court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.

CHAPTER – VII

PROCEDURE OF SECURITY GUARD COURTS

79. Presiding Officer.

At every General Security Guard Court or Petty Security Guard Court, the senior member shall be the presiding officer.

80. Judge Attorneys, etc.

Every General Security Guard Court shall, and every Petty Security Guard Court may, be attended by a Judge Attorney or a Deputy Judge Attorney-General or an Additional Judge Attorney-General, or, if no such officer is available, an officer approved by the Judge Attorney-General or by any officer authorized in this behalf by the Judge Attorney General.

81. Challenges.

(1) At all trials by a General Security Guard Court or by a Petty Security Guard Court, as soon as the Court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer, sitting on the Court.

(2) If the accused objects to such officer, his objection and also the reply thereto of the officer objected to shall be heard and recorded, and the remaining officers of the Court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner, by another officer subject to the same right of the accused to object.

(4) When no challenge is made, or when a challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the Court shall proceed with the trial.

82. Oaths of members, Judge Attorney and witness.

(1) An oath or affirmation in the prescribed manner shall be administered to every member of every Security Guard Court and to the Judge Attorney, or, as the case may be, the Deputy Judge Attorney-General or the Additional Judge Attorney-General or the officer approved under section 80, before the commencement of the trial.

(2) Every person giving evidence before a Security Guard Court shall be examined after being duly sworn or affirmed in the prescribed form.

(3) The provisions of sub-section (2) shall not apply where the witness is a child under twelve years of age and the Security Guard Court is of the opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

83. Voting by members.

(1) Subject to the provisions of sub-sections (2) and (3), every decision of a Security Guard Court shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(2) No sentence of death shall be passed by a General Security Guard Court without the concurrence of at least two-thirds of the members of the Court.

(3) In matters, other than a challenge or the finding or sentence, the presiding officer shall have a casting vote.

84. General rule as to evidence.

The Indian Evidence Act, 1872, shall subject to the provisions of this Act, apply to all proceedings before a Security Guard Court.

85. Judicial notice.

A Security Guard Court may take judicial notice of any matter within the general knowledge of the members as officers of the Security Guard.

86. Summoning witnesses.

(1) The convening officer, the presiding officer of a Security Guard Court, the Judge Attorney or, as the case may be, the Deputy Judge Attorney-General or the Additional Judge Attorney-General or the officer approved under section 80 or the Commander of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness who is subject to this Act, the summons shall be sent to his Commander and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such Magistrate shall give effect to the summons as if the witness was required in the Court of such a Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

87. Documents exempted from production.

(1) Nothing in section 86 shall be deemed to effect the operation of section 123 and 124 of the Indian Evidence Act, 1872 or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(2) If any document in such custody is, in the opinion of any District Magistrate, Chief Judicial Magistrate, Court of Session or High Court wanted for the purpose of any Security Guard Court, such Magistrate or Court may require the

postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(3) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require to postal or telegraph authorities, as the case may be, to cause such search to be made for and to detain such document pending the order of any such District Magistrate, Chief Judicial Magistrate, Court of Session or High Court.

88. Commissions for examination of witnesses.

(1) Whenever, in the course of a trial by a Security Guard Court, it appears to the Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such Court may address the Judge Attorney-General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge Attorney -General may then, if he thinks necessary, issue a commission to any Chief Judicial Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Magistrate or officer to whom the commission is issued, or if he is the Chief Judicial Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in the trials of warrant –cause under the Code of Criminal Procedure, 1973,

(4) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XXIII-B of the Code of Criminal Procedure, 1973.

89. Examination of witness on commission.

(1) The prosecutor and accused person in any case in which a commission is issued under section 88 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or officer

executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such Magistrate or officer by counsel, or expect in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine as the case may be, the said witness.

(3) After a commission issued under section 88 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Attorney –General.

(4) On receipt of a commission, and deposition returned under sub-section (3), the Judge Attorney-General shall forward the same to the Court at whose instance the commission was issued or, if such Court has been dissolved, to any other Court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused and shall form part of the proceedings of the Court.

(5) In every case in which a commission is issued under section 88, the trial may be adjourned for specified time reasonably sufficient for the execution and return of the commission.

90. Conviction of offence not charged.

A person charged before a Security Guard Court,-

- (a) With desertion may be found guilty of attempting to desert or of being absent without leave.
- (b) With attempting to desert may be found guilty of being absent without leave;
- (c) with using criminal force may be found guilty of assault;
- (d) with using threatening language may be found guilty of using insubordinate language;
- (e) with any one of the offences specified in clauses (a), (b), (c) and (d) of section 29 may be found guilty or any other of these offences with which he might

have been charged;

- (f) with an offence punishable under section 45 may be found guilty ,of any other offence of which he might have been found guilty, if the provisions of the code of Criminal Procedue,1973 (2 of 1974), were applicable;
- (g) with any offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment;
- (h) with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

91. Presumption as to signatures-

In any proceeding under that Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

92. Appointment paper.-

(1) Any appointment paper purporting to be signed by an appointing authority shall, in proceedings under this Act, be evidence of the person appointed having given the answers to questions which he is therein represented as having given.

(2) The appointment of such person may be proved by the production of the original or a copy of his appointment paper purporting to be certified to be a true copy by the officer having the custody of the appointment paper.

93. Presumption as to certain documents. -

(1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any unit of the Security Guard, or respecting the circumstances of any person not having served in, or belonged to any unit of the Security Guard, if purporting to be signed by or on behalf of the

Central Government or the Director-General, or by any other competent authority, shall be evidence of the facts stated in such letter, return or other document.

(2) A National Security Guard List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers and Assistant Commanders therein mentioned, and of any appointment held by them and of the group, unit or branch of the Security Guard to which they belong.

(3) Where a record is made in any unit book in pursuance of this Act or of any rules or otherwise in the discharge of official duties, and purports to be signed by the Commander or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(4) A copy of any record in any unit book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any unit of the Security Guard or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the Commander of the unit to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed, shall be evidence of the matters so stated.

(6) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of any officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(7) (a) Any document purporting to be a report under the hand of a Government scientific expert to whom this sub-section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquiry, trial or other proceeding under this Act.

- (b) The Security Guard Court may, if it thinks fit, summon and examine any such expert as to the subject matter of his report.
- (c) Where any such expert is summoned by a Security Guard Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible person working with him to attend the Court if such officer is conversant with the facts of the case and can satisfactorily depose in the Court on his behalf.
- (d) This sub-section applies to the Government scientific experts, for the time being specified in sub-section (4) of section 293 of the Code of Criminal Procedure, 1973.

94. Reference by accused to Government officer.

(1) If at any trial for desertion or absence without leave, overstaying leave or not rejoicing when warned for service, the accused person states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn the proceedings until his reply is received.

(2) The Written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the Court.

(3) If the Court is dissolved before the receipt of such reply or if the Court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

95. Evidence of previous convictions and general character.

(1) When any person subject to this Act has been convicted by a Security Guard Court of any offence, such Security Guard Court may inquire into, and receive and record evidence of any previous convictions of such person, either by a Security Guard Court or by A Criminal Court, or any previous award of punishment under section 51 or section 53 or section 54 and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) The evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, books of Security Guard Courts or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a Summary Security Guard Court, the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of his section.

96. Lunacy of accused.

(1) Whenever, in the course of a trial by a Security Guard Court, it appears to the Court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the Court shall record a finding accordingly.

(2) The presiding officer of the Court, or, in the case of a Summary Security Guard Court, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its finding under section 111, as the case may be.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another Security Guard Court for the offence with which he was charged.

(4) The authority to whom the finding of a Summary Security Guard Courts is reported under sub-section (2), and a confirming officer confirming the finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4), the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

97. Subsequent fitness of lunatic accused for trial.

Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 96, any officer prescribed in this behalf, may-

- (a) if such person is in custody under sub-section (4) of section 96, on the report of a medical officer that he is capable of making his defence, or
- (b) if such person is detained in a jail under sub-section (5) of section 96, on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section, on a certificate of any two or more of the visitors of such asylum and if he is detained in any other place under that sub-section, on a certificate of the prescribed authority, that he is capable of making his defence.

Take steps to have such person tried by the same or another Security Guard Court for the offence with which he was originally charged or, if the offence is a civil offence, by a Criminal Court.

98. Transmission to Central Government of orders under Section 97.

A copy of every order made by an officer under section 97 for the trial of the accused shall forthwith be sent to the Central Government.

99. Release of lunatic accused.

Where any person is in custody under sub-section (4) of section 96 or under detention under sub-section (5) of that section,-

- (a) if such person is in custody under the said sub-section (4), on the report of a medical officer, or
- (b) if such person is detained under the said sub-section (5), on a certificate from any of the authorities mentioned in clause (b) of section 97 that in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

100. Delivery of lunatic accused to relatives.

Where any relative or friend of any person who is in custody under sub-section (4) of section 96 or under detention under sub-section (5) of that section desires that he should be delivered to his care and custody, the Central Government may, upon application by such relative or friend and, on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of, and, prevented from doing injury to himself or to any other officer, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

101. Order for custody and disposal of property pending trial.

When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Security Guard Court during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

102. Order for disposal of property regarding which offence is committed.

After the conclusion of a trial before any Security Guard Court, the Court or the officer confirming the finding or sentence of such Security Guard Court, or any authority superior to such officer, or, in the case of a Summary Security Guard Court whose finding or sentence does not require confirmation, an officer not below the rank of a Deputy Inspector General within whose command the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the Court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the

order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1973.

(3) In this section, the term "property" includes in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

103. Powers of Security Guard Court in relation to proceedings under the Act.

Any trial by a Security Guard Court under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Security Guard Court shall be deemed to be a Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

CHAPTER VIII

CONFIRMATION AND REVISION

104. Finding and sentence not valid, unless confirmed.

No finding or sentence of a General Security Guard Court or a Petty Security Guard Court shall be valid except so far as it may be confirmed as provided by this Act.

105. Power to confirm finding and sentence of General Security Guard Court.

The findings and sentences of General Security Guard Courts may be confirmed by the Central Government or by any officer empowered in this behalf by warrant of the Central Government.

106. Power to confirm finding and sentence of Petty Security Guard Court.

The findings and sentences of Petty Security Guard Courts may be confirmed by an authority or officer having power to convene a General Security Guard Court or by any officer empowered in this behalf by warrant of such authority or officer.

107. Limitation of powers of confirming authority.

A warrant issued under section 105 or section 106 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

108. Power of confirming authority to mitigate, remit or commute sentences.

Subject to such restrictions, reservations or conditions, as may be contained in any warrant issued under section 105 or section 106, a confirming authority may, when confirming the sentence of a Security Guard Court, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 47 or may set aside the proceedings of the trial if found to be illegal.

109. Revision of finding or sentence.

(1) Any finding or sentence of a Security Guard Court which requires confirmation may be once revised by the order of the confirming authority and on such revision, the Court, if so directed by the confirming authority, may take additional evidence.

(2) The Court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the Court shall proceed with the revision, provided that, if a General Security Guard Court, it still consists of five officers, or, if a Petty Security Guard Court, of three officers.

110. Finding and sentence of a Summary Security Guard Court.

The finding and sentence of a Summary Security Guard Court shall not require to be confirmed, but may be carried out forthwith.

111. Transmission of proceedings of Summary Security Guard Court.

The proceedings of every Summary Security Guard Court shall, without delay, be forwarded to the officer not below the rank of a Deputy Inspector General within whose command the trial was held, or to the prescribed officer, and such

officer, or the Director General or any officer empowered by him in this behalf may, for reasons based on the merits of the case, but not on merely technical grounds, set aside the proceedings, or reduce the sentence to any other sentence which the Court might have passed.

112. Alteration of finding or sentence in certain cases.

(1) Where a finding of guilty by a Security Guard Court, which has been confirmed or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 124 to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the Security Guard Court on the charge and unless it appears that the Security Guard Court must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by a Security Guard Court which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid, the authority referred to in sub-section (1) may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(4) Any finding substituted, or any sentence passed under this section shall, for the purposes of this Act and the rules, have effect as if it were a finding or sentence, as the case may be, of a Security Guard Court.

113. Remedy against order, finding or sentence of Security Guard Court.

(1) Any person subject to this Act who considers himself aggrieved by any order passed by any Security Guard Court may present a petition to the officer or authority empowered to confirm any finding or sentence of such Security Guard Court, and the confirming authority may take such steps as may be considered

necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Security Guard Court which has been confirmed, may present a petition to the Central Government, the Director General, or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the Director General, or the prescribed officer, as the case may be, may pass such order thereon as it or he thinks fit.

114. Annulment of proceedings.

The Central Government, the Director General or an Inspector General may annul the proceedings of any Security Guard Court on the ground that they are illegal or unjust.

CHAPTER IX

EXECUTION OF SENTENCES, PARDONS, REMISSIONS, ETC.

115. Form of sentence of death.

In awarding a sentence of death, a Security Guard Court shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

116. Commencement of sentence of imprisonment.

Whenever any person is sentenced by a Security Guard Court under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the presiding officer, or in the case of a Summary Security Guard Court, by the Court.

Provided that the period of detention or confinement, if any undergone by an accused person, during the investigation, inquiry or trial of the case in which he is sentenced and before the date on which the original proceedings were signed shall be set-off against the term of his sentence and the liability of such person to undergo imprisonment shall be restricted to the remainder, if any of the term of his sentence.

117. Execution of sentence of imprisonment.

(1) Whenever any sentence of imprisonment is passed under this Act by a Security Guard Court or whenever any sentence of death is commuted to imprisonment, the confirming officer, or in case of a Summary Security Guard Court the officer holding the Court or such other officer as may be prescribed, shall, save as otherwise provided in sub-section (3) and (4), direct that the sentence shall be carried out by confinement in a civil prison.

(2) When a direction has been made under sub-section (1), the Commander of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(3) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a Security Guard Court, the appropriate officer under sub-section (1) may direct that the sentence shall be carried out by confinement in Security Guard custody instead of in a civil prison.

(4) On active duty, a sentence of imprisonment may be carried out by confinement in such place as the Deputy Inspector General within whose command the person sentenced is serving or any prescribed officer, may, from time to time, appoint.

118. Temporary custody of offender.

Where a sentence of imprisonment is directed to be undergone in a civil prison the offender may be kept in Security Guard custody or in any other fit place, till such time as it is possible to send him to a civil prison.

119. Execution of sentence of imprisonment in special cases.

Whenever, in the opinion of an officer not below the rank of a Deputy Inspector General within whose command the trial is held, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in Security Guard custody in accordance with the provisions of section 117, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

120. Conveyance of prisoner from place to place.

A person under sentence of imprisonment may, during his conveyance from place to place, or when on board a ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

121. Communication of certain orders to prison officers.

Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed, to the officer in charge of the prison in which such person is confined.

122. Execution of sentence of fine.

When a sentence of fine is imposed by a Security Guard Court under section 45, a copy of such sentence signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any Magistrate in India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1973, as if it were a sentence of fine imposed by such Magistrate.

123. Informality or error in the order or warrant.

Whenever any person is sentenced to imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of informality or error in, or as respects, the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or, is confined in any such place, and any such order, warrant or document may be amended accordingly.

124. Pardon and remission.

When any person subject to this Act has been convicted by a Security Guard Court of any offence, the Central Government or the Director General or, in the case of a sentence, which he could have confirmed or which did not require confirmation,

an officer not below the rank of a Deputy Inspector General within whose command such person at the time of conviction was serving, or the prescribed officer may, -

- (a) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or
- (b) mitigate the punishment awarded; or
- (c) commute such punishment for any less punishment or punishments mentioned in the Act; or
- (d) either with or without conditions which the person sentenced accepts, release the person on parole.

125. Cancellation of conditional pardon, release on parole or remission.

(1) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon, release or remission had not been granted.

(2) A person whose sentence of imprisonment is carried into effect under the provisions of sub-section (1) shall undergo only the unexpired portion of his sentence.

126. Suspension of sentence of imprisonment.

(1) Where a person subject to this Act is sentenced by a Security Guard Court to imprisonment, the Central Government, the Director General or any officer empowered to convene a General Security Guard Court may suspend the sentence whether or not the offender has already been committed to prison or to Security Guard custody.

(2) The authority or officer specified in sub-section (1) may, in the case of an offender so sentenced, direct that until the orders of such authority or officer have been obtained the offender shall not be committed to prison or to Security Guard custody.

(3) The powers conferred by sub-sections (1) and (2) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

127. Orders pending suspension.

(1) Where the sentence referred to in section 126 is imposed by a Security Guard Court, other than a Summary Security Guard Court, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to Security Guard custody until the orders of the authority or officer specified in section 126, have been obtained.

(2) Where a sentence of imprisonment is imposed by a Summary Security Guard Court, the officer holding the trial may make the direction referred to in sub-section (1).

128. Release on suspension.

Where a sentence is suspended under section 126, the offender shall forthwith be released from custody.

129. Computation of period of suspension.

Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

130. Order after suspension.

The authority or officer specified in section 126 may, at any time while a sentence is suspended, order-

- (a) that the offender be committed to undergo the unexpired portion of the sentence; or
- (b) that the sentence be remitted.

131. Reconsideration of case after suspension.

(1) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or

officer specified in section 126, or by any officer not below the rank of a Deputy Inspector General duly authorized by the authority or officer specified in section 126.

(2) Where on such reconsideration by the officer so authorized it appears to him that the conduct of the offender sine his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 126.

132. Fresh sentence after suspension.

Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then-

- (a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;
- (b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or Security Guard custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and
- (c) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 130 or section 131 continue to be suspended.

133. Scope of power of suspension.

The powers conferred by sections 126 and 130 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

134. Effect of suspension and remission on dismissal.

(1) Where in addition to any other sentence the punishment of dismissal has been awarded by a Security Guard Court, and such other sentence is suspended under section 126, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 126.

(2) If such other sentence is remitted under section 130, the punishment of dismissal shall also be remitted.

CHAPTER X

MISCELLANEOUS

135. Rank Structure.

(1) The officers and other members of the Security Guard shall be classified in accordance with their ranks in the following categories, namely:-

- (a) Officers-
 - (i) Director-General.
 - (ii) Additional Director-General.
 - (iii) Inspector-General.
 - (iv) Deputy Inspector-General.
 - (v) Group Commander.
 - (vi) Squadron Commander.
 - (vii) Team Commander.

- (b) Assistant Commanders-
 - (viii) Assistant Commander Grade I.
 - (ix) Assistant Commander Grade II.
 - (x) Assistant Commander Grade III.

- (c) persons other than officers and Assistant Commanders-
 - (xi) Ranger Grade I.
 - (xii) Ranger Grade II.
 - (xiii) Combatised tradesmen.

(2) The matters relating to inter se seniority of persons belonging to the same rank shall be determined in accordance with such rules as may be prescribed.

(3) Notwithstanding anything contained in this Act, the Director-General may, subject to confirmation by the Central Government as provided hereinafter, grant to an officer or Assistant Commander Grade I a rank, mentioned in clause (a) of sub-section (1) as a local rank, whenever considered necessary by him in the interest of better functioning of the Security Guard.

- (4) An officer or Assistant Commander Grade I holding a local rank,-
 - (a) shall exercise the command and be vested with the powers of an officer holding that rank;
 - (b) shall cease to hold that rank, if the grant of such rank is not confirmed within one month by the Central Government, or when so ordered by the Director-General or when he ceases to hold the appointment for which the rank was granted;
 - (c) shall not be entitled to claim any seniority over other officers by virtue of his having held such local rank; and
 - (d) shall not be entitled to any extra pay for holding such rank.

136. Deductions from pay and allowances.

- (1) Subject to the provisions of sub-section (4), the following deductions may be made from the pay and allowances of any officer, that is to say,-
 - (a) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given and accepted by the Inspector-General under whom he is for the time being serving, and for every day of imprisonment awarded by a Criminal Court or a Security Guard Court;
 - (b) any sum required to make good the pay of any person subject to this Act which the officer has unlawfully retained or unlawfully refused to pay;
 - (c) any sum required to be paid as fine imposed by a Criminal Court;
 - (d) any sum required to make up any loss, damage or destruction of public property or property belonging to the Security Guard which, after due investigation, appears to the Inspector-General under whom the officer is for the time being serving, to have been occasioned by wrongful act or negligence on the part of the officer;

- (e) any sum required by an order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or step-child or towards the cost of any relief given by the said Government to the said wife or child.

- (2) Subject to the provisions of sub-section (4), the following deductions may be made from the pay and allowances of a person subject to this Act, other than an officer, that is to say,-
 - (a) all pay and allowances due to him for every day of absence either on desertion or without leave unless a satisfactory explanation has been given and accepted by his Commander and for every day of imprisonment awarded by a Criminal Court, a Security Guard Court or an Officer exercising authority under section 51;
 - (b) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;
 - (c) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property or any private fund of the Security Guard as may be awarded by his Commander;
 - (d) any sum required to be paid as fine imposed by a Criminal Court;
 - (e) any sum required by an order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or step-child or towards the cost of any relief given by the said Government to the said wife or child.

- (3)
 - (i) No person shall be treated as absent or under imprisonment for a day unless the absence or imprisonment has lasted, whether wholly in one day or partly in one day and partly in another, for six consecutive hours or upwards.
 - (ii) Any absence or Imprisonment for less than a day may be reckoned as absence or imprisonment for a day if such absence or imprisonment prevented the absentee from fulfilling any duty as a member of the Security Guard which was thereby thrown upon some other member.

4. The total deductions from the pay and allowances of a person made under clauses (b) to (e) of sub-section (I) or clauses (b) to (e) of sub-section (2) shall not, except where he is sentenced to dismissal, exceed in any one month, one-half of his day and allowance for that month.

5. Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode or recovering the same, be deducted from any public money due to him other than a pension.

6. The following shall be the authorities competent to order deductions from pay and allowances under this Act, namely: -

- (a) Commanders not below the rank of Group Commanders, in the case of persons other than officers;
- (b) Inspector-General, in the case of officers.

7. Any authority superior to the one ordering any deduction under this act shall be competent to remit the whole or part of the said deduction.

8. Any power conferred by the provisions of this section on an officer may be exercised by an officer or authority superior in command to the first mentioned officer

137. Powers and duties conferrable and imposable on members of the Security Guard.

(1) The Central Government may, by general or special order, published in the Official Gazette, direct that, subject to such conditions and limitations as may be specified in the order, any member of the Security Guard may exercise or discharge such of the powers or duties under any Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by such Central Act empowered to exercise or discharge for the said purposes.

(2) The Central Government may, by general or special order published in the Official Gazette, confer or impose, with the concurrence of the State Government concerned, any of the powers or duties which may be exercised or discharged under a

State Act by a police officer upon a member of the Security Guard who, in the opinion of the Central Government, holds a corresponding or higher rank.

(3) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

138. Protection for acts of members of the Security Guard.

(1) In any suit or proceeding against any member of the Security Guard for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(2) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved the member of the Security Guard shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(3) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Security Guard for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules, shall be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of such proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

139. Power to make rules.

(1) The Central Government may, by notification, make rules for carrying out the provisions 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 manner in which the Security Guard shall be constituted and the conditions of service of its members under sub-section (1) of section 4;
- (b) the nature of the book or letter or other document, the communication or publication whereof would not be restricted by sub-section (1) of section 12;
- (c) the purposes other than political purposes for which a person subject to the Act shall not participate in, or address any meeting or demonstration under sub-section (2) of section 12;
- (d) the purposes for which the forfeiture of service as a punishment may be inflicted under sub-section (1) of section 47;
- (e) the manner in which officers may be proceeded against under section 53 and sub-section (1) and (2) of section 54;
- (f) the manner in which and the period for which any person subject to this Act may be taken into and detained in Security Guard custody pending his trial under sub-section (4) of section 56;
- (g) the manner in which a Court of inquiry enquiring into the absence of person, shall administer oath or affirmation under sub-section (1) of section 60;
- (h) the manner in which a vacancy may be filled in on the retirement of a member of General Security Guard Court or a Petty Security Guard Court under sub-section (3) of section 81;
- (i) the manner in which oath or affirmation shall be administered to the members of the Security Guard Courts and the Judge Attorney, etc., under sub-section (1) of section 82;
- (j) the manner in which a person giving evidence before a Security Guard Court shall be sworn or affirmed in under sub-section (2) of section 82;

- (k) the manner in which a Security Guard Court when convicting a person may inquire into under sub-section (1) of section 95;
 - (l) the manner in which an accused person shall be kept in custody under sub-section (4) of section 96;
 - (m) the form of the warrant which shall be forwarded to the officer in charge of the prison in which a person under sentence of imprisonment is to be conferred under sub-section (2) of section 117;
 - (n) the person who shall forward the warrant for the confinement of a person in a civil prison under section 121;
 - (o) the matters relating to inter se seniority of persons belonging to the same rank under sub-section (2) of section 135;
 - (p) the authorities or officers to be prescribed under section 7, sub-section (2) of section 10, sub-section (1) of section 12, section 77, section 97, section 111, sub-section (2) of section 113, sub-sections (1), (2) and (4) of section 117 and section 124;
 - (q) any other matter which is to be, or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary for the proper implementation of this Act.
- (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

140. Provisions as to existing National Security Guard.

(1) The National Security Guard in existence at the commencement of this Act shall be deemed to be the Security Guard constituted under this Act.

(2) The members of the National Security Guard in existence at the commencement of this Act shall be deemed to have been appointed as such under this Act.

(3) Anything done or any action taken before the commencement of this Act in relation to the constitution of the National security Guard referred to in sub-section (1), in relation to any person appointed, shall be as valid and as effective in law as if such thing or action was done or taken under this Act:

Provided that nothing in this sub-section shall render any person guilty of any offence in respect of anything done or omitted to be done by him before the commencement of this Act.

THE NATIONAL INVESTIGATION AGENCY ACT, 2008

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THE SCHEDULE.

THE NATIONAL INVESTIGATION AGENCY ACT, 2008

ACT NO. 34 OF 2008

[31st December, 2008.]

An Act to constitute an investigation agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India, security of State, friendly relations with foreign States and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organisations and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and application.—(1) This Act may be called the National Investigation Agency Act, 2008.

(2) It extends to the whole of India and it applies also—

- (a) to citizens of India outside India;
- (b) to persons in the service of the Government wherever they may be; and
- (c) to persons on ships and aircrafts registered in India wherever they may be.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

- (a) “Agency” means the National Investigation Agency constituted under section 3;
- (b) “Code” means the Code of Criminal Procedure 1973 (2 of 1974);
- (c) “High Court” means the High Court within whose jurisdiction the Special Court is situated;
- (d) “prescribed” means prescribed by rules;
- (e) “Public Prosecutor” means a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor appointed under section 15;
- (f) “Schedule” means the Schedule to this Act;
- (g) “Scheduled Offence” means an offence specified in the Schedule;
- (h) “Special Court” means a Special Court constituted under section 11 or, as the case may be, under section 22;
- (i) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in the Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

CHAPTER II

NATIONAL INVESTIGATION AGENCY

3. Constitution of National Investigation Agency.—(1) Notwithstanding anything in the Police Act, 1861 (5 of 1861), the Central Government may constitute a special agency to be called the National Investigation Agency for investigation and prosecution of offences under the Acts specified in the Schedule.

(2) Subject to any orders which the Central Government may make in this behalf, officers of the Agency shall have throughout India in relation to the investigation of Scheduled Offences and arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers have in connection with the investigation of offences committed therein.

(3) Any officer of the Agency of, or above, the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise throughout India, any of the powers of the officer-in-charge of a police station in the area in which he is present for the time being and when so exercising such powers shall, subject to any such orders as aforesaid, be deemed to be an officer-in-charge of a police station discharging the functions of such an officer within the limits of his station.

4. Superintendence of National Investigation Agency.—(1) The superintendence of the Agency shall vest in the Central Government.

(2) The administration of the Agency shall vest in an officer designated as the Director-General appointed in this behalf by the Central Government who shall exercise in respect of the Agency such of the powers exercisable by a Director-General of Police in respect of the police force in a State, as the Central Government may specify in this behalf.

5. Manner of constitution of Agency and conditions of service of members.—Subject to the provisions of this Act, the Agency shall be constituted in such manner as may be prescribed and the conditions of service of persons employed in the Agency shall be such as may be prescribed.

CHAPTER III

INVESTIGATION BY THE NATIONAL INVESTIGATION AGENCY

6. Investigation of Scheduled Offences.—(1) On receipt of information and recording thereof under section 154 of the Code relating to any Scheduled Offence the officer-in-charge of the police station shall forward the report to the State Government forthwith.

(2) On receipt of the report under sub-section (1), the State Government shall forward the report to the Central Government as expeditiously as possible.

(3) On receipt of report from the State Government, the Central Government shall determine on the basis of information made available by the State Government or received from other sources, within fifteen days from the date of receipt of the report, whether the offence is a Scheduled Offence or not and also whether, having regard to the gravity of the offence and other relevant factors, it is a fit case to be investigated by the Agency.

(4) Where the Central Government is of the opinion that the offence is a Scheduled Offence and it is a fit case to be investigated by the Agency, it shall direct the Agency to investigate the said offence.

(5) Notwithstanding anything contained in this section, if the Central Government is of the opinion that a Scheduled Offence has been committed which is required to be investigated under this Act, it may, *suo motu*, direct the Agency to investigate the said offence.

(6) Where any direction has been given under sub-section (4) or sub-section (5), the State Government and any police officer of the State Government investigating the offence shall not proceed with the investigation and shall forthwith transmit the relevant documents and records to the Agency.

(7) For the removal of doubts, it is hereby declared that till the Agency takes up the investigation of the case, it shall be the duty of the officer-in-charge of the police station to continue the investigation.

7. Power to transfer investigation to State Government.—While investigating any offence under this Act, the Agency, having regard to the gravity of the offence and other relevant factors, may—

(a) if it is expedient to do so, request the State Government to associate itself with the investigation; or

(b) with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence.

8. Power to investigate connected offences.—While investigating any Scheduled Offence, the Agency may also investigate any other offence which the accused is alleged to have committed if the offence is connected with the Scheduled Offence.

9. State Government to extend assistance to National Investigation Agency.—The State Government shall extend all assistance and co-operation to the Agency for investigation of the Scheduled Offences.

10. Power of State Government to investigate Scheduled Offences.—Save as otherwise provided in this Act, nothing contained in this Act shall affect the powers of the State Government to investigate and prosecute any Scheduled Offence or other offences under any law for the time being in force.

CHAPTER IV

SPECIAL COURTS

11. Power of Central Government to constitute Special Courts.—(1) The Central Government shall, by notification in the Official Gazette, for the trial of Scheduled Offences, constitute one or more Special Courts for such area or areas, or for such case or class or group of cases, as may be specified in the notification.

(2) Where any question arises as to the jurisdiction of any Special Court, it shall be referred to the Central Government whose decision in the matter shall be final.

(3) A Special Court shall be presided over by a judge to be appointed by the Central Government on the recommendation of the Chief Justice of the High Court.

(4) The Agency may make an application to the Chief Justice of the High Court for appointment of a Judge to preside over the Special Court.

(5) On receipt of an application under sub-section (4), the Chief Justice shall, as soon as possible and not later than seven days, recommend the name of a judge for being appointed to preside over the Special Court.

(6) The Central Government may, if required, appoint an additional judge or additional judges to the Special Court, on the recommendation of the Chief Justice of the High Court.

(7) A person shall not be qualified for appointment as a judge or an additional judge of a Special Court unless he is, immediately before such appointment, a Sessions Judge or an Additional Sessions Judge in any State.

(8) For the removal of doubts, it is hereby provided that the attainment, by a person appointed as a judge or an additional judge of a Special Court, of the age of superannuation under the rules applicable to him in the service to which he belongs shall not affect his continuance as such judge or additional judge and the Central Government may by order direct that he shall continue as judge until a specified date or until completion of the trial of the case or cases before him as may be specified in that order.

(9) Where any additional judge or additional judges is or are appointed in a Special Court, the judge of the Special Court may, from time to time, by general or special order, in writing, provide for the distribution of business of the Special Court among all judges including himself and the additional judge or additional judges and also for the disposal of urgent business in the event of his absence or the absence of any additional judge.

12. Place of sitting.—A Special Court may, on its own motion, or on an application made by the Public Prosecutor and if it considers it expedient or desirable so to do, sit for any of its proceedings at any place other than its ordinary place of sitting.

13. Jurisdiction of Special Courts.—(1) Notwithstanding anything contained in the Code, every Scheduled Offence investigated by the Agency shall be tried only by the Special Court within whose local jurisdiction it was committed.

(2) If, having regard to the exigencies of the situation prevailing in a State if,—

(a) it is not possible to have a fair, impartial or speedy trial; or

(b) it is not feasible to have the trial without occasioning the breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor or a judge of the Special Court or any of them; or

(c) it is not otherwise in the interests of justice,

the Supreme Court may transfer any case pending before a Special Court to any other Special Court within that State or in any other State and the High Court may transfer any case pending before a Special Court situated in that State to any other Special Court within the State.

(3) The Supreme Court or the High Court, as the case may be, may act under this section either on the application of the Central Government or a party interested and any such application shall be made by motion, which shall, except when the applicant is the Attorney-General for India, be supported by an affidavit or affirmation.

14. Powers of Special Courts with respect to other offences.—(1) When trying any offence, a Special Court may also try any other offence with which the accused may, under the Code be charged, at the same trial if the offence is connected with such other offence.

(2) If, in the course of any trial under this Act of any offence, it is found that the accused person has committed any other offence under this Act or under any other law, the Special Court may convict such person of such other offence and pass any sentence or award punishment authorised by this Act or, as the case may be, under such other law.

15. Public Prosecutors.—(1) The Central Government shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors:

Provided that the Central Government may also appoint for any case or class or group of cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code, and the provisions of the Code shall have effect accordingly.

16. Procedure and powers of Special Courts.—(1) A Special Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts that constitute such offence or upon a police report of such facts.

(2) Where an offence triable by a Special Court is punishable with imprisonment for a term not exceeding three years or with fine or with both, the Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code shall, so far as may be, apply to such trial:

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is not desirable to try it in a summary way, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to, and in relation to, a Special Court as they apply to and in relation to a Magistrate:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding one year and with fine which may extend to five lakh rupees.

(3) Subject to the other provisions of this Act, a Special Court shall, for the purpose of trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session so far as may be in accordance with the procedure prescribed in the Code for the trial before a Court of Session.

(4) Subject to the other provisions of this Act, every case transferred to a Special Court under sub-section (2) of section 13 shall be dealt with as if such case had been transferred under section 406 of the Code to such Special Court.

(5) Notwithstanding anything contained in the Code, but subject to the provisions of section 299 of the Code, a Special Court may, if it thinks fit and for reasons to be recorded by it, proceed with the trial in the absence of the accused or his pleader and record the evidence of any witness, subject to the right of the accused to recall the witness for cross-examination.

17. Protection of witnesses.—(1) Notwithstanding anything contained in the Code, the proceedings under this Act may, for reasons to be recorded in writing, be held *in camera* if the Special Court so desires.

(2) On an application made by a witness in any proceeding before it or by the Public Prosecutor in relation to such witness or on its own motion, if the Special Court is satisfied that the life of such witness is in danger, it may, for reasons to be recorded in writing, take such measures as it deems fit for keeping the identity and address of such witness secret.

(3) In particular, and without prejudice to the generality of the provisions of sub-section (2), the measures which a Special Court may take under that sub-section may include—

(a) the holding of the proceedings at a place to be decided by the Special Court;

(b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;

(c) the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and

(d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a Court shall not be published in any manner.

(4) Any person who contravenes any decision or direction issued under sub-section (3) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to one thousand rupees.

18. Sanction for prosecution.—No prosecution, suit or other legal proceedings shall be instituted in any court of law, except with the previous sanction of the Central Government, against any member of the Agency or any person acting on his behalf in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

19. Trial by Special Court to have precedence.—The trial under this Act of any offence by a Special Court shall be held on day-to-day basis on all working days and have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall, if necessary, remain in abeyance.

20. Power to transfer cases to regular courts.—Where, after taking cognizance of any offence, a Special Court is of the opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for the trial of such offence to any court having jurisdiction under the Code and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

21. Appeals.—(1) Notwithstanding anything contained in the Code, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.

(2) Every appeal under sub-section (1) shall be heard by a bench of two Judges of the High Court and shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

(3) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.

(4) Notwithstanding anything contained in sub-section (3) of section 378 of the Code, an appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.

(5) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days:

Provided further that no appeal shall be entertained after the expiry of period of ninety days.

22. Power of State Government to constitute Special Courts.—(1) The State Government may constitute one or more Special Courts for the trial of offences under any or all the enactments specified in the Schedule.

(2) The provisions of this Chapter shall apply to the Special Courts constituted by the State Government under sub-section (1) and shall have effect subject to the following modifications, namely—

(i) references to “Central Government” in sections 11 and 15 shall be construed as references to State Government;

(ii) reference to “Agency” in sub-section (1) of section 13 shall be construed as a reference to the “investigation agency of the State Government”;

(iii) reference to “Attorney-General for India” in sub-section (3) of section 13 shall be construed as reference to “Advocate-General of the State”.

(3) The jurisdiction conferred by this Act on a Special Court shall, until a Special Court is constituted by the State Government under sub-section (1) in the case of any offence punishable under this Act, notwithstanding anything contained in the Code, be exercised by the Court of Session of the division in which such offence has been committed and it shall have all the powers and follow the procedure provided under this Chapter.

(4) On and from the date when the Special Court is constituted by the State Government the trial of any offence investigated by the State Government under the provisions of this Act, which would have been required to be held before the Special Court, shall stand transferred to that Court on the date on which it is constituted.

CHAPTER V

MISCELLANEOUS

23. Power of High Courts to make rules.—The High Court may, by notification in the Official Gazette, make such rules, as it may deem necessary for carrying out the provisions of this Act relating to Special Courts within its territory.

24. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made, under this section after the expiration of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

25. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality to the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of constitution of the Agency and the conditions of service of persons employed in the Agency under section 5;

(b) any other matter which is required to be, or may be, prescribed.

26. Laying of rules.—Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agrees in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDEULE

[See section 2(I) (f)]

1. The Atomic Energy Act, 1962 (33 of 1962);
2. The Unlawful Activities (Prevention) Act, 1967 (37 of 1967);
3. The Anti-Hijacking Act, 1982 (65 of 1982);
4. The Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982 (66 of 1982);
5. The SAARC Convention (Suppression of Terrorism) Act, 1993 (36 of 1993);
6. The Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002 (69 of 2002);
7. The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 (21 of 2005);
8. Offences under—
 - (a) Chapter VI of the Indian Penal Code (45 of 1860) [sections 121 to 130 (both inclusive)];
 - (b) Sections 489-A to 489-E (both inclusive) of the Indian Penal Code (45 of 1860).



आरत का राजपत्र

The Gazette of India

अमाधारण

EXTRAORDINARY

भाग II — खण्ड I

PART II — Section I

प्राप्तिकार से प्रकाशित

PUBLISHED BY AUTHORITY

वि. 55] नई दिल्ली, सोमवार, नवम्बर 6, 2006 / कार्तिक 15, 1928
No. 55] NEW DELHI, MONDAY, NOVEMBER 6, 2006 / KARTIKA 15, 1928

इस भाग में प्रिन्ट पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 6th November, 2006/Kartika 15, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 3rd November, 2006, and is hereby published for general information:—

THE ASSAM RIFLES ACT, 2006

No. 47 of 2006

[3rd November, 2006.]

An Act to consolidate and amend the law relating to the governance of the Assam Rifles, an Armed Force of the Union for ensuring the security of the borders of India, to carry out Counter Insurgency Operations in the specified areas and to act in aid of civil authorities for the maintenance of the law and order and for matters connected therewith.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

I. (1) This Act may be called the Assam Rifles Act, 2006.

Short title
and
commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "active duty", in relation to a person subject to this Act, means any duty as a member of the Force during the period in which such person is attached to, or forms part of, a unit of the Force—

(i) which is engaged in operations against an enemy or an insurgent or a terrorist or any person in arms against the Union, or

(ii) which is operating at a picket or engaged on patrol or other guard duty along the borders of India,

and includes duty by such person during any period declared by the Central Government, by notification in the Official Gazette, as a period of active duty with reference to any area in which or under any provision of this Act or for the purposes of any other law for the time being in force, any person or class of persons subject to this Act may be serving;

(b) "Assam Rifles Court" means a Court referred to in section 86;

(c) "battalion" means a unit of the Force constituted as battalion by the Central Government;

(d) "Chief Law Officer" and "Law Officer" mean, respectively, the Chief Law Officer and a Law Officer of the Force appointed by the Central Government;

(e) "civil offence" means an offence which is triable by a criminal court;

(f) "civil prison" means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894, or under any other law for the time being in force; 9 of 1894.

(g) "Commandant", when used in any provision of this Act with reference to any unit of the Force, means the officer whose duty it is under the rules or regulations or in the absence of such rules or regulations, by custom of the service, to discharge with respect to that unit, the functions of a Commandant in regard to matters of the description referred to in that provision;

(h) "criminal court" means a court of ordinary criminal justice in any part of India; .

(i) "deputation" means a period for which the services of a person belonging to any department of the Central Government are placed at the disposal of the Director-General;

(j) "Director-General" and "Additional Director-General" mean, the Director-General and Additional Director-General of the Force appointed under sub-sections (1) and (2) of section 5, respectively;

(k) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates, terrorists and any person in arms against whom it is the duty of any person subject to this Act to take action;

(l) "enrolled person" means an under-officer or other person enrolled under this Act;

(m) "Force" means the Assam Rifles;

(n) "Force custody" means the arrest or confinement of a member of the Force according to rules and includes any military custody of such member under the Army Act, 1950;

46 of 1950.

(o) "Inspector-General" and "Deputy Inspector-General" mean, respectively, the Inspector-General and the Deputy Inspector-General of the Force appointed under sub-section (2) of section 5;

(p) "member of the Force" means an officer, a subordinate officer, an under-officer or other enrolled person and includes the persons on deputation;

(q) "notification" means a notification published in the Official Gazette;

(r) "offence" means any act or omission punishable under this Act and includes a civil offence;

(s) "officer" means a person appointed or in pay as an officer of the Force; but does not include a subordinate officer or an under-officer;

(t) "prescribed" means prescribed by rules made under this Act;

(u) "regulations" means the regulations made by the Central Government under this Act;

(v) "rule" means a rule made under this Act;

(w) "subordinate officer" means a person appointed or in pay as a Subedar Major, a Subedar or a Naib Subedar of the Force;

(x) "superior officer", when used in relation to a person subject to this Act, means—

(i) any member of the Force or a person on deputation to whose command such person is for the time being subject in accordance with the rules;

(ii) any officer of higher rank or class or of a higher grade in the same class,

and includes when such person is not an officer, a subordinate officer or an under-officer of higher rank, class or grade;

(y) "terrorist" means any person who, with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people, does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or fire-arms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature in such a manner, as to cause or is likely to cause death of, or injury to, any person or persons, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community;

(z) "under-officer" means a Warrant Officer, Havildar, Naik and Lance Naik of the Force;

(za) "unit" means any—

(i) battalion; or

(ii) regiment; or

(iii) training institution; or

(iv) Head Quarters of Deputy Inspector-General; or

(v) Head Quarters of Inspector-General; or

(vi) Head Quarters of Director-General,

of the Force and includes any other formation of the Force specified, by notification, by the Central Government.

(2) Words and expressions used and not defined in this Act but defined in the Indian Penal Code shall have the meanings assigned to them in that Code.

(3) In this Act, reference to any law not in force in the State of Jammu and Kashmir shall be construed as references to the corresponding law in force in that State.

Persons subject to this Act

3. (1) The following persons (whether on deputation or otherwise employed) shall be subject to this Act, wherever they may be, namely:—

- (a) officers and subordinate officers; and
- (b) under-officers and other persons enrolled under this Act.

(2) Members of the Force in existence at the commencement of this Act shall be deemed to have been appointed or, as the case may be, enrolled as such under this Act.

(3) Notwithstanding anything contained in sub-section (1), any person who is employed in the Force on deputation from the regular Army as defined under clause (xxi) of section 3 of the Army Act, 1950 shall not be subject to this Act and shall, during the period of such deputation, be deemed to be subject to the Army Act, 1950:

46 of 1950.

Provided that such person in regard to his duties and discipline shall be deemed to be under the command of the member of the Force under whose command such person for the time being is placed:

Provided further that, in case of such person, for the purposes of his duties and discipline, the expression "active duty" defined in clause (a) of sub-section (1) of section 2 shall be deemed to be the "active service" as defined in clause (i) of section 3 of the Army Act, 1950 for taking any action against him under the provisions of the said Army Act.

46 of 1950.

(4) Any person who is not subject to this Act is posted for any service with the members of the Force or engaged to accompany with or to provide any service in any manner to the members of the Force in such—

- (i) camp;
- (ii) line of march;
- (iii) frontier post;
- (iv) active duty; or
- (v) counter insurgency operations,

as may be specified, by notification, by the Central Government in this behalf shall be deemed to be a member of the Force, till he is so posted or engaged in such corresponding rank as may be determined, by notification, by the Central Government for the purposes of this Act.

(5) Every person subject to this Act shall remain so subject until retired, discharged, released, removed or dismissed from the Force in accordance with the provisions of this Act and the rules.

CHAPTER II

CONSTITUTION OF THE FORCE AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE FORCE

Constitution of Force.

4. (1) There shall be an armed force of the Union called the Assam Rifles for ensuring the security of the borders of India, to carry out counter insurgency operations in the specified areas and to act in aid of civil authorities for the maintenance of law and order and the matters connected therewith.

(2) Subject to the provisions of this Act, the Force shall be reconstituted in such manner as may be prescribed and the conditions of service of the members of the Force shall be such as may be prescribed.

5. (1) The general superintendence, direction and control of the Force shall vest in, and be exercised by, the Central Government and subject thereto and to the provisions of this Act and the rules and regulations, the command and supervision of the Force shall vest in an officer to be appointed by the Central Government as the Director-General of the Force.

Control,
direction, etc.

(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Additional Director-General, Inspectors-General, Deputy Inspectors-General, Commandants and other officers as may be appointed by the Central Government.

6. (1) The persons to be enrolled to the Force, the mode of enrolment and the procedure for enrolment shall be such as may be prescribed by the Central Government.

Enrolment.

(2) Notwithstanding anything contained in this Act and the rules and regulations, every person who has, for a continuous period of three months, been in receipt of pay as a person enrolled under this Act and borne on the rolls of the Force shall be deemed to have been duly enrolled.

(3) No person who is not a citizen of India shall, except by the consent of the Central Government signified in writing, be enrolled in the Force.

7. Every member of the Force shall be liable to serve in any part of India as well as outside India.

Liability for
service outside
India.

8. No member of the Force shall be at liberty—

Resignation
and
withdrawal
from the post.

(a) to resign his appointment during the term of his engagement; or

(b) to withdraw himself from all or any of the duties of his appointment,

except with the previous permission in writing of the prescribed authority.

9. Every person subject to this Act shall hold office during the pleasure of the President.

Tenure of
service under
the Act.

10. Subject to the provisions of this Act and the rules and regulations, the Central Government may dismiss or remove from the service any person subject to this Act.

Termination
of service by
Central
Government.

11. (1) The Director-General, Additional Director-General or any Inspector-General may dismiss or remove from service or reduce to a lower grade or rank or the ranks any person subject to this Act other than an officer.

Dismissal,
removal or
reduction by
Director-
General and
by other
officers.

(2) An officer not below the rank of Deputy Inspector-General may dismiss or remove from the service any person under his command other than an officer or a subordinate officer of such rank or the ranks as may be prescribed.

(3) Any such officer as is mentioned in sub-section (2) may reduce to a lower grade or rank or the ranks any person under his command except an officer or a subordinate officer.

(4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules and regulations.

12. A subordinate officer or an under-officer or other enrolled person who is retired, discharged, released, removed or dismissed from service shall be furnished by the officer, to whose command he is subject, with a certificate in the language which is the mother-tongue of such person and also in Hindi and English language setting forth—

Certificate of
termination
of service.

(a) the authority terminating his service;

(b) the cause for such termination; and

(c) the full period of his service in the Force.

Restrictions
on right to
form
association,
freedom of
speech, etc.

13. (1) No person subject to this Act shall, without the previous sanction in writing of the Central Government or of the prescribed authority,—

(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 society, institution, association or organisation that is not recognised as part 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 the *bonafide* discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

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) of this sub-section, the decision of the Central Government thereon shall be final.

(2) No person subject to this Act shall participate in, or address, any meeting or take part in any demonstration organised by any body or persons for any political purposes or for such other purposes as may be prescribed.

CHAPTER III

SERVICE PRIVILEGES

Authorised
deduction only
to be made
from pay.

14. The pay of every person subject to this Act due to him as such under any rules or regulations for the time being in force shall be paid without any deduction other than the deductions authorised by or under this Act or any other Act.

Remedy of
aggrieved
persons other
than officers.

15. (1) Any person subject to this Act other than an officer who deems himself wronged by any officer or subordinate officer may complain to the officer under whose command or orders he is serving.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or when necessary, refer the complaint to superior authority.

(4) Every such complaint shall be preferred in such manner as may, from time to time, be specified by the Director-General.

(5) The Central Government may revise any decision by the Director-General under sub-section (2), but, subject thereto, the decision of the Director-General shall be final.

Remedy of
aggrieved
officers.

16. Any officer who deems himself wronged by his Commandant or any superior officer and who on due application made to his Commandant or such superior officer does not receive the redress to which he considers himself entitled, may complain to the Central Government in such manner as may, from time to time, be specified by the Director-General.

Immunity
from
attachment.

17. Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to this Act, nor any animal used by him for the discharge of his duty shall be seized, nor shall, the pay and allowances of any such person or any part thereof, be attached, by direction of any civil or revenue court or any revenue officer in satisfaction of any decree or order enforceable against him.

18. (1) No person subject to this Act shall, so long as he belongs to the Force, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue officer, except with the prior consent of the Central Government.

Immunity from arrest for debt.

(2) The Judge of any such court or the said officer may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no court-fee shall be payable by the complainant.

19. (1) No Presiding Officer or member of an Assam Rifles Court, no Law Officer, no party to any proceeding before an Assam Rifles Court, or his legal practitioner or agent and no witness acting in obedience to a summons to attend an Assam Rifles Court shall, while proceeding to, attending or returning from, an Assam Rifles Court, be liable to arrest under civil or revenue process.

Immunity of persons attending Assam Rifles Court from arrest.

(2) If any such person is arrested under any such process, he may be discharged by order of the Assam Rifles Court.

20. The rights and privileges specified in the preceding section of this Chapter shall be in addition to, and not in derogation of, any other rights and privileges conferred on persons subject to this Act generally by any other law for the time being in force.

Savings of rights and privileges under other laws.

CHAPTER IV OFFENCES

21. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences in relation to the enemy and punishable with death.

(a) shamefully abandons or delivers up any post, place or guard, committed to his charge or which it is his duty to defend; or

(b) intentionally uses any means to compel or induce any person subject to this Act or to army, naval, air force law or any member of other armed forces to abstain from acting against the enemy or to discourage such person from acting against the enemy; or

(c) in the presence of enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(d) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the Union; or

(e) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies or in any other manner whatsoever; or

(f) in time of active operation against the enemy intentionally occasions a false alarm in action, camp, quarters or spreads or causes to be spread reports calculated to create alarm or despondency; or

(g) in time of action leaves his Commandant or other superior officer or his post, guard, picket, patrol or party without being regularly relieved or without leave; or

(h) having been captured by the enemy or made a prisoner of war, voluntarily serves with or aids the enemy; or

(i) knowingly harbours or protects an enemy not being a prisoner; or

(j) being a sentry in time of active operation against the enemy or alarm, sleeps upon his post or is intoxicated; or

(k) knowingly does any act calculated to imperil the success of the Force or the army, naval, air forces of India or any other armed forces of the Central Government co-operating therewith or any part of such forces,

shall, on conviction by an Assam Rifles Court, be liable to suffer death or such less punishment as is in this Act mentioned.

22. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) is taken prisoner or captured by the enemy, by want of due precaution or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner or so captured fails to rejoin his service when able to do so; or

(b) without due authority holds correspondence with, or communicates intelligence to, the enemy or any person in league with the enemy or having come by the knowledge of any such correspondence or communication, wilfully omits to discover it immediately to his Commandant or other superior officer,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

23. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) forces a safeguard or forces or uses criminal force to a sentry; or

(b) breaks into any house or other place in search of plunder; or

(c) being a sentry, sleeps upon his post or is intoxicated; or

(d) without orders from his superior officer, leaves his guard, picket, patrol or posts; or

(e) intentionally or through neglect occasions a false alarm in camp or quarters, or spreads or causes to be spread reports calculated to create unnecessary alarm or despondency; or

(f) makes known the parole, watchword or countersign to any person not entitled to receive it; or

(g) knowingly gives a parole, watchword or countersign different from what he received,

shall, on conviction by an Assam Rifles Court,—

(A) if he commits any such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(B) if he commits any such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

24. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) begins, incites, causes or conspires with any other person to cause any mutiny in the Force or in the army, naval or air forces of India or any forces co-operating therewith; or

(b) joins in any such mutiny; or

(c) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

Offences in relation to the enemy and not punishable with death.

Offences punishable more severely on active duty than at other times.

Mutiny.

(d) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his Commandant or other superior officer; or

(e) endeavours to seduce any person in the Force or in the army, naval or air forces of India or any forces cooperating therewith from his duty or allegiance to the Union,

shall, on conviction by an Assam Rifles Court, be liable to suffer death or such less punishment as is in this Act mentioned.

25. (1) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by an Assam Rifles Court,—

Desertion and aiding desertion.

(a) if he commits the offence when on active duty or when under orders for active duty, be liable to suffer death or such less punishment as is in this Act mentioned; and

(b) if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who knowingly harbours any such deserter shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(3) Any person subject to this Act who, being cognisant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

26. Any person subject to this Act who commits any of the following offences, that is to say,—

Absence without leave.

(a) absents himself without leave; or

(b) without sufficient cause, overstays leave granted to him; or

(c) being on leave of absence and having received information from the appropriate authority that any battalion or part thereof or any other unit of the Force, to which he belongs, has been ordered on active duty, fails, without sufficient cause, to rejoin without delay; or

(d) without sufficient cause, fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(e) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(f) when in camp or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(g) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

27. Any person subject to this Act who commits any of the following offences, that is to say,—

Striking or threatening superior officers.

(a) uses criminal force to or assaults his superior officer; or

(b) uses threatening language to such officer; or

(c) uses insubordinate language to such officer,
shall, on conviction by an Assam Rifles Court,—

(A) if such officer is at the time in the execution of his office or, if the offence is committed on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(B) in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned:

Provided that in the case of an offence specified in clause (c), the imprisonment shall not exceed five years.

*Disobedience
to superior
officer.*

28. (1) Any person subject to this Act who disobeys, in such manner as to show a wilful defiance of authority, any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by an Assam Rifles Court,—

(a) if he commits such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if he commits such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

*Insubordination
and
obstruction.*

29. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being concerned in any quarrel, affray or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(b) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(c) resists an escort whose duty it is to apprehend him or to have him in charge;

or

(d) breaks out of barracks, camp or quarters; or

(e) neglects to obey any general, local or other order; or

(f) impedes the Force Police referred to in section 85 or any person lawfully acting on its behalf, or when called upon, refuses to assist in the execution of his duty a Force Police or any person lawfully acting on his behalf,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (d) and (e), to two years, and in the case of the offences specified in the other clauses, to ten years, or in either case such less punishment as is in this Act mentioned.

*Fraudulent
enrolment.*

30. Any person subject to this Act who knowingly attempts to get enrolled or enrolls any other person who does not fulfil the conditions enabling him to be enrolled, shall, on conviction by the Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

*Falsie answers
on enrolment.*

31. Any person having become subject to this Act who is discovered to have made at the time of enrolment a wilfully false answer to any question set forth in the prescribed

form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

32. Any officer, subordinate officer or an under-officer who behaves in a manner unbecoming his position and the character expected of him shall, on conviction by an Assam Rifles Court, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

Unbecoming conduct.

33. Any person subject to this Act who commits any of the following offences, that is to say,—

Certain forms of disgraceful conduct.

(a) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(b) malingers, or feigns or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity; or

(c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

34. Any officer, subordinate officer or an under-officer who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Ill-treating a subordinate.

35. Any person subject to this Act who is found in a state of intoxication whether on duty or not, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

Intoxication.

36. Any person subject to this Act who commits any of the following offences, that is to say,—

Permitting escape of person in custody.

(a) when in command of guard, picket, patrol or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; or

(b) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by an Assam Rifles Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

37. Any person subject to this Act who commits any of the following offences, that is to say,—

Irregularity in connection with arrest or confinement.

(a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to Force custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to one year or such less punishment as is in this Act mentioned.

Escape from custody.

38. Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Offences in respect of property.

39. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits theft of any property belonging to the Government, or to any Force mess, band or institution, or to any person subject to this Act; or

(b) dishonestly misappropriates or converts to his own use any such property; or

(c) commits criminal breach of trust in respect of any such property; or

(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reason to believe the commission of such offence; or

(e) wilfully destroys or injures any property of the Government entrusted to him; or

(f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Extortion and corruption.

40. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits extortion; or

(b) without proper authority extracts from any person money, provisions or service,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Making away with equipment.

41. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) makes away with, or is concerned in making away with any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(b) loses by neglect anything mentioned in clause (a); or

(c) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clause (a), to ten years, and in the case of the offences specified in the other clauses, to five years, or in either case such less punishment as is in this Act mentioned.

Injury to property.

42. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) destroys or injures any property mentioned in clause (a) of section 41 or any property belonging to any Force mess, band or institution, or to any person subject to this Act; or

(b) commits any act which causes damage to, or destruction of, any property of the Government by fire; or

(c) kills, injures, makes away with, ill-treats or loses any animal entrusted to him, shall, on conviction by an Assam Rifles Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

43. Any person subject to this Act who commits any of the following offences, that is to say,—

False accusations.

(a) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(b) in making complaint against any person subject to this Act, makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material facts,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

44. Any person subject to this Act who commits any of the following offences, that is to say,—

Falsifying official document and false declarations.

(a) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or

(b) in any document of the description mentioned in clause (a), knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(c) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(d) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(e) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

45. Any person subject to this Act who commits any of the following offences, that is to say,—

Signing in blank and failure to report.

(a) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores, or any property of the Government fraudulently leaves in blank any material part for which his signature is a voucher; or

(b) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

46. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences relating to Assam Rifles Court.

(a) being duly summoned or ordered to attend as a witness before an Assam Rifles Court, wilfully or without reasonable excuse, makes default in attending; or

(b) refuses to take an oath or make an affirmation legally required by an Assam Rifles Court to be taken or made; or

(c) refuses to produce or deliver any document in his power or control legally required by an Assam Rifles Court to be produced or delivered by him; or

(d) refuses, when a witness, to answer any question which he is by law bound to answer; or

(e) is guilty of contempt of the Assam Rifles Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such Court,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

False evidence.

47. Any person subject to this Act who, having been duly sworn or affirmed before any Assam Rifles Court or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Unlawful detention of pay.

48. Any officer, subordinate officer or an under-officer who, having received the pay of a person subject to this Act, unlawfully detains or refuses to pay the same when due, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Violation of good order and discipline.

49. Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline of the Force shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Miscellaneous offences.

50. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being in command at any post or on the march, and receiving a complaint that anyone under his command has beaten or otherwise mal-treated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(b) by defiling any place of worship, or otherwise, intentionally insults the religion, or wounds the religious feelings of any person; or

(c) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or

(d) being below the rank of subordinate officer, when off duty, appears without proper authority, in or about camp, or when going to, or returning from, any town or bazaar, carrying a rifle, sword or other offensive weapons; or

(e) directly or indirectly accepts or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(f) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

51. Any person subject to this Act who attempts to commit any of the offences specified in sections 21 to 50 (both inclusive) and in such attempt does any act towards the commission of the offence shall, on conviction by an Assam Rifles Court, where no express provision is made by this Act for the punishment of such attempt, be liable,—

Attempt.

(a) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if the offence attempted to be committed is punishable with imprisonment to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

52. Any person subject to this Act who abets the commission of any of the offences specified in sections 21 to 50 (both inclusive) shall, on conviction by an Assam Rifles Court, if the Act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences that have been committed.

53. Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 21, 24 and clause (a) of sub-section (1) of section 25 shall, on conviction by an Assam Rifles Court, if that offence, be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years of such less punishment as is in this Act mentioned.

Abetment of offences punishable with death and not committed.

54. Any person subject to this Act who abets the commission of any of the offences specified in sections 21 to 50 (both inclusive) and punishable with imprisonment shall, on conviction by an Assam Rifles Court, if that offence, be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences punishable with imprisonment and not committed.

55. Subject to the provisions of section 56, any person subject to this Act who at any place in, or beyond, India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section, shall be liable to be tried by an Assam Rifles Court and, on conviction, be punishable as follows, that is to say,—

Civil offences.

(a) if the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer any punishment assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(b) in any other case, he shall be liable to suffer any punishment assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

56. A person subject to this Act who commits an offence of murder or of culpable homicide not amounting to murder against, or of rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence against this Act and shall not be tried by an Assam Rifles Court, unless he commits any of the said offences,—

Civil offences not triable by an Assam Rifles Court.

(a) while on active duty; or

(b) at any place outside India; or

(c) at any place specified by the Central Government, by notification in this behalf.

CHAPTER V

PUNISHMENTS

Punishment
awardable by
Assam Rifles
Courts.

57. (1) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by the Assam Rifles Courts, according to the scale following, that is to say,—

- (a) death;
 - (b) imprisonment which may be for the term of life or any other lesser term but excluding imprisonment for a term not exceeding three months in Force custody;
 - (c) dismissal from the service;
 - (d) compulsory retirement from service;
 - (e) imprisonment for a term not exceeding three months in Force custody except in case of officers and subordinate officers;
 - (f) reduction to the ranks or to a lower rank or grade or place in the list of their rank in the case of an under-officer;
 - (g) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion;
 - (h) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;
 - (i) fine;
 - (j) severe reprimand or reprimand except in the case of persons below the rank of an under-officer;
 - (k) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active duty;
 - (l) forfeiture in the case of person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;
 - (m) stoppage of pay and allowances until any proved loss or damage occasioned by the offence for which he is convicted is made good.
- (2) Each of the punishments specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Alternative
punishments
awardable by
Assam Rifles
Courts.

58. Subject to the provisions of this Act, an Assam Rifles Court may, on convicting a person subject to this Act of any of the offences specified in sections 21 to 54 (both inclusive) award either the particular punishment with which the offence is stated in the said sections to be punishable or, in lieu thereof, any of the punishments lower in the scale set out in section 57 regard being had to the nature and degree of the offence.

Combination
of
punishments.

59. A sentence of an Assam Rifles Court may award in addition to, or without any one other punishment, the punishment specified in clause (c) of sub-section (1) of section 57, and any one more of the punishments specified in clauses (f) to (m) (both inclusive) of that sub-section.

Retention in
the Force of a
person
convicted on
active duty.

60. When on active duty, any enrolled person has been sentenced by an Assam Rifles Court to dismissal or to imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and such service shall be reckoned as part of his term of imprisonment, if any.

Punishments
otherwise than
by Assam
Rifles Courts.

61. Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of an Assam Rifles Court in the manner stated in sections 62, 64, 65 and 66.

62. Subject to the provisions of section 63, a Commandant or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person subject to this Act, otherwise than as an officer or a subordinate officer or a Warrant Officer who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the following punishments, that is to say,—

Minor punishments.

- (a) imprisonment in Force custody up to twenty-eight days;
- (b) detention up to twenty-eight days;
- (c) confinement to the lines up to twenty-eight days;
- (d) extra guards or duties;
- (e) deprivation of any special position or special emoluments or any acting rank or reduction to a lower grade of pay;
- (f) forfeiture of good service and good conduct pay;
- (g) severe reprimand or reprimand;
- (h) fine up to fourteen days' pay in any one month;
- (i) deduction from his pay and allowances of any sum required to make good such compensation for any expense, loss, damage or destruction caused by him to the Central Government, or any building or property as may be awarded by his Commandant.

63. (1) In the case of an award of two or more of the punishments specified in clauses (a), (b), (c) and (d) of section 62, the punishments specified in clause (c) or clause (d) shall take effect only at the end of the punishment specified in clause (a) or clause (b).

Limit of punishments under section 62.

(2) When two or more of the punishments specified in the said clauses (a), (b) and (c) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(3) The punishments specified in the said clauses (a), (b) and (c) shall not be awarded to any person who is of the rank of an under-officer or was at the time of committing the offence for which he is punished of such rank.

(4) The punishments specified in clause (g) of section 62 shall not be awarded to any person below the rank of an under-officer.

64. (1) An officer not below the rank of the Deputy Inspector-General or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against an officer below the rank of a Deputy Commandant and of any rank of subordinate officer and of the rank of Warrant Officer who is charged with an offence under this Act and award one or more of the following punishments, that is to say,—

Punishment of officers below the rank of Deputy Commandant, subordinate officers and Warrant Officer by Deputy Inspectors-General and others.

- (a) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by an Assam Rifles Court;
- (b) severe reprimand or reprimand;
- (c) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

(2) In every case in which punishment has been awarded under sub-section (1), certified true copies of the proceedings shall be forwarded, in the prescribed manner, by the officer awarding the punishment to the prescribed superior authority who may, if the punishment awarded, appears to him to be illegal, unjust or excessive, cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

Punishment of officers below the rank of a Commandant, subordinate officers and Warrant Officer by the Inspectors-General and others.

65. (1) An officer not below the rank of the Inspector-General or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against an officer below the rank of a Commandant and any subordinate officer and a Warrant Officer who is charged with an offence under this Act and award one or more of the following punishments, that is to say,—

- (a) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by an Assam Rifles Court;
- (b) severe reprimand or reprimand;
- (c) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

(2) In every case in which punishment has been awarded under sub-section (1), certified true copies of the proceedings shall be forwarded, in the prescribed manner, by the officer awarding the punishment to the prescribed superior authority who may, if the punishment awarded appears to him to be illegal, unjust or excessive, cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

Punishment of subordinate officers and Warrant Officer by Commandant, etc.

66. A Commandant or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against any subordinate officer or a Warrant Officer who is charged with an offence under this Act and award one or more of the following punishments, that is to say,—

- (a) severe reprimand or reprimand;
- (b) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good;

Provided that the punishment mentioned under clause (a) shall only be awarded by an officer not below the rank of Commandant authorised by the Director-General to award such punishment.

Collective fines.

67. (1) Whenever any weapon or part of a weapon, or ammunition, forming part of the equipment of a unit of the Force, is lost or stolen, an officer not below rank of the Commandant of a battalion may, after making such inquiry as he thinks fit and subject to the rules and regulations, impose a collective fine upon the subordinate officer, under-officer and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

(2) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

CHAPTER VI

PENAL DEDUCTIONS

Deductions from pay and allowances of officers.

68. The following penal deductions may be made from the pay and allowances of an officer, that is to say,—

(a) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to his commanding officer and has been approved by the Central Government;

(b) all pay and allowances for every day while he is in custody or under suspension from duty on a charge for an offence for which he is afterwards convicted by a criminal court or an Assam Rifles Court or by an officer exercising authority under section 64 or section 65;

(c) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(d) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by an Assam Rifles Court by whom he is convicted of such offence or by an officer exercising authority under section 64 or section 65;

(e) all pay and allowances ordered by an Assam Rifles Court to be forfeited or stopped;

(f) any sum required to pay a fine awarded by a criminal court or an Assam Rifles Court;

(g) any sum required to make good any loss, damage or destruction of public or regimental property which, after due investigation, appears to the Central Government to have been occasioned by the wrongful act or negligence on the part of the officer;

(h) all pay and allowances forfeited by order of the Central Government if the officer is found by a Court of inquiry constituted by the Director-General in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of, the enemy, or in any manner to have aided the enemy, or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;

(i) any sum required by order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

69. Subject to the provisions of section 72, the following penal deductions may be made from the pay and allowances of a person subject to this Act other than an officer, that is to say,—

(a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war unless a satisfactory explanation has been given and accepted by his Commandant, and for every day of imprisonment awarded by a criminal court, an Assam Rifles Court or an officer exercising authority under section 62;

(b) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or an Assam Rifles Court or on a charge of absence without leave for which he is afterwards awarded imprisonment by an officer exercising authority under section 62;

(c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(d) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by the order of the Central Government or such officer as may be specified by that Government;

(e) all pay and allowances ordered by an Assam Rifles Court or by an officer exercising authority under any of the sections 62, 64, 65 and 66 to be forfeited or stopped;

(f) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of the enemy;

(g) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property as may be awarded by his Commandant;

Deductions
from pay and
allowances of
persons other
than officers.

(h) any sum required to pay a fine awarded by a criminal court, an Assam Rifles Court or an officer exercising authority under any of the sections 62 and 67;

(i) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

70. For the purpose of clauses (a) and (b) of section 69,—

(a) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another, for six consecutive hours or upwards;

(b) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any duty which was thereby thrown upon some other person;

(c) absence or custody for twelve consecutive hours or upward may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

(d) a period of absence or imprisonment, which commences before, and ends after, midnight may be reckoned as a day.

71. In case of any person subject to this Act who is in custody or under suspension from duty on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (b) of section 68 and section 69.

72. The total deductions from the pay and allowances of a person made under clauses (e), (g) to (i) of section 69 shall not, except where he is sentenced to dismissal or removal, exceed in any one month one-half of his pay and allowances of that month.

73. Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

74. Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of the enemy, is to be inquired into under this Act or any other law, the Director-General or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.

75. Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent and by such authority, as may, from time to time be prescribed.

76. In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under clause (a) of section 69, but in respect of whom a remission has been made under section 75, it shall be lawful for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

77. It shall be lawful for proper provision to be made by the prescribed authorities for any dependants of any person subject to this Act who is prisoner of war or is missing, out of his pay and allowances.

78. For the purposes of sections 76 and 77, a person shall be deemed to continue to be prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 74 and if he is dismissed or removed from the service in consequence of such conduct, until the date of such dismissal or removal.

Computation
of time of
absence of
custody.

Pay and
allowances
during trial.

Limit of
certain
deductions.

Deduction
from public
money due to
a person.

Pay and
allowances of
prisoner of
war during
inquiry into
his conduct

Remission of
deductions.

Provision for
dependents of
prisoner of war
from remitted
deductions.

Provision for
dependents of
prisoner of war
from his pay
and allowances.

Period during
which a person
is deemed to be
a prisoner of
war.

CHAPTER VII

ARREST AND PROCEEDINGS BEFORE TRIAL.

79. (1) Any person subject to this Act who is charged with an offence may be taken into Force custody, under the order of any superior officer.

Custody of offenders.

(2) Notwithstanding anything contained in sub-section (1), an officer may order into Force custody any other officer, though such other officer may be of a higher rank, engaged in a quarrel, affray or disorder.

80. (1) It shall be the duty of every Commandant to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

Duty of Commandant in regard to detention.

(2) The case of every person, being detained in custody beyond a period of forty-eight hours, and reason thereof, shall be reported by the Commandant to the Deputy Inspector-General under whom he is serving or such other officer to whom an application may be made to convene an Assam Rifles Court for the trial of the person charged.

(3) In reckoning the period of forty-eight hours specified in sub-section (1), Sundays and other public holidays shall be excluded.

(4) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in Force custody, pending the trial by any competent authority for any offence committed by him.

Interval between committal and trial.

81. In every case where any such person as is mentioned in section 79 and as not on active duty, remains in such custody for a longer period than eight days, without his trial by an Assam Rifles Court being ordered to be convened, a special report giving reasons for the delay shall be made by his Commandant in the manner prescribed, and a similar report shall be forwarded at intervals of every eight days until an Assam Rifles Court is convened or such person is released from custody.

Arrest by civil authorities.

82. Whenever any person subject to this Act who is accused of an offence under this Act, is within the jurisdiction of any magistrate or police officer, such magistrate or police officer shall aid in the apprehension and delivery to Force custody of such person upon receipt of a written application to that effect signed by his Commandant or an officer authorised by the Commandant in that behalf.

Capture of deserters.

83. (1) Whenever any person subject to this Act deserts, the Commandant of the unit to which he belongs, shall give information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a magistrate and shall deliver the deserter, when apprehended, into Force custody.

Inquiry into absence without leave.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

84. (1) When any person subject to this Act has been absent from his duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be assembled and such court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period

thereof and the said deficiency, if any, and the Commandant of the unit to which the person belongs shall make a record thereof in the prescribed manner.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purpose of this Act, be deemed to be deserter.

Force Police Officers.

85. (1) The Director-General or any prescribed officer may appoint persons (in this Act referred to as Force Police) for discharging the functions specified in sub-sections (2) and (3).

(2) The duties of a person appointed under sub-section (1), are to take charge of persons confined for any offence, to preserve good order and discipline and to prevent breaches of the same by persons serving in, or attached to, the Force.

(3) Notwithstanding anything contained in section 79, a person appointed under sub-section (1) may, at any time, arrest and detain for trial, any person subject to this Act who commits, or is charged with, an offence, and may also carry into effect any punishment to be inflicted in pursuance of a sentence awarded by an Assam Rifles Court or by an officer exercising authority under section 62 but shall not inflict any punishment on his own authority:

Provided that no officer shall be arrested or detained otherwise than on the order of another officer.

CHAPTER VIII

ASSAM RIFLES COURTS

Kinds of Assam Rifles Courts.

86. For the purposes of this Act there shall be three kinds of Assam Rifles Courts, that is to say,—

- (a) General Assam Rifles Courts;
- (b) Petty Assam Rifles Courts; and
- (c) Summary Assam Rifles Courts.

Power to convene a General Assam Rifles Court.

87. A General Assam Rifles Court may be convened by the Central Government or the Director-General or by any officer empowered in this behalf by warrant of the Director-General.

Power to convene a Petty Assam Rifles Court.

88. A Petty Assam Rifles Court may be convened by an officer having power to convene a General Assam Rifles Court or by an officer empowered in this behalf by warrant of any such officer.

Contents of warrants issued under sections 87 and 88.

89. A warrant issued under section 87 or section 88 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Composition of General Assam Rifles Court.

90. A General Assam Rifles Court shall consist of not less than five officers, each of whom has held the post of Assistant Commandant for not less than three whole years and of whom not less than four are of a rank not below that of a confirmed Assistant Commandant.

Composition of a Petty Assam Rifles Court.

Explanation.—For the purpose of this section and section 91, "Assistant Commandant" includes any post of a higher rank and any post declared by the Central Government, by notification, to be an equivalent post as also any post higher in rank than the post so declared.

Summary Assam Rifles Court.

91. A Petty Assam Rifles Court shall consist of not less than three officers, each of whom has held the post of Assistant Commandant for not less than two whole years.

92. (1) A Summary Assam Rifles Court may be held by the Commandant of any unit of the Force and he alone shall constitute the Court.

(2) The proceedings shall be attended throughout by two other persons who shall be officers or subordinate officers or one of either, and who shall not as such, be sworn or affirmed.

93. (1) If an Assam Rifles Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

Dissolution of an Assam Rifles Court.

(2) If, on account of the illness of the Law Officer or of the accused before the finding, it is impossible to continue the trial, an Assam Rifles Court shall be dissolved.

(3) The officer who convened an Assam Rifles Court may dissolve the same if it appears to him that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Assam Rifles Court.

(4) Where an Assam Rifles Court is dissolved under this section, the accused may be tried again.

94. A General Assam Rifles Court shall have the power to try any person subject to this Act for any offence punishable thereunder and to pass any sentence authorised thereby.

Power of General Assam Rifles Court.

95. A Petty Assam Rifles Court shall have power to try any person subject to this Act other than an officer or a subordinate officer for any offence made punishable thereunder and to pass any sentence authorised by this Act other than a sentence of death or imprisonment for a term exceeding two years.

Power of a Petty Assam Rifles Court.

96. (1) Subject to the provisions of sub-section (2), a Summary Assam Rifles Court may try any offence punishable under this Act.

Power of a Summary Assam Rifles Court.

(2) When there is no grave reason for immediate action and reference can, without detriment to discipline, be made to the officer empowered to convene a Petty Assam Rifles Court for the trial of the alleged offender, an officer holding a Summary Assam Rifles Court shall not try without such reference any offence punishable under any of the sections 21, 24 and 55, or any offence against the officer holding the Court.

(3) A Summary Assam Rifles Court may try any person subject to this Act and under the command of the officer holding the Court, except an officer or a subordinate officer.

(4) A Summary Assam Rifles Court may pass any sentence which may be passed under this Act except the sentence of death or of imprisonment for a term exceeding the limit specified in sub-section (5).

(5) The limit referred to in sub-section (4) shall be—

(a) one year, if the officer holding the Assam Rifles Court has held either the post of Commandant or a post declared by the Central Government, by notification, to be equivalent thereto for a period of not less than three years or holds a post of higher rank than either of the said posts; and

Prohibition of second trial.

(b) three months, in any other case.

97. (1) When any person subject to this Act has been acquitted or convicted of an offence by an Assam Rifles Court or by a criminal court or has been dealt with under section 62 or section 64 or section 65 or section 66, he shall not be liable to be tried again for the same offence by an Assam Rifles Court or dealt with under the said sections.

(2) When any person, subject to this Act has been acquitted or convicted of an offence by an Assam Rifles Court or has been dealt with under section 62 or section 64 or section 65 or section 66, he shall not be liable to be tried again by a criminal court for the same offence or on the same facts.

Period of limitation for trial.

98. (1) Except as provided by sub-section (2), no trial by an Assam Rifles Court of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years and such period shall commence—

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to the authority competent to initiate action, from the first day on which such offence comes to the knowledge of such person or authority, whichever is earlier; or

(c) where it is not known by whom the offence was committed, from the first day on which the identity of the offender is known to the person aggrieved by the offence or to the authority competent to initiate action, whichever is earlier:

Provided that in computing any period under this section, the period during which the proceedings of investigation has been stayed by any court in such offence by injunction or order, the period of the continuance of the injunction or order, the day on which it was issued or made; and the day on which it was withdrawn, shall be excluded.

(2) The provisions of sub-section (1) shall not apply to a trial for an offence of desertion or for any of the offences mentioned in section 24 or an offence under section 30.

(3) In computation of the period of three years under sub-section (1), any time spent by such person in evading arrest after the commission of the offence, shall be excluded.

Trial, etc., of
offender who
ceases to be
subject to this
Act.

99. (1) Where an offence under this Act had been committed by any person while subject to this Act and he had ceased to be so subject, he may be taken into and kept in Force custody and tried and punished for such offence as if he continued to be so subject.

(2) No such person shall be tried for an offence, unless his trial commences within a period of three years after he had ceased to be subject to this Act; and in computing such period, the time during which such person has avoided arrest by absconding or concealing himself or where the institution of the proceeding in respect of the offence has been stayed by an injunction or order, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or for any of the offences mentioned in section 24 or shall affect the jurisdiction of a criminal court to try an offence triable by such court as well as by an Assam Rifles Court.

Application
of this Act
during term of
sentence.

100. (1) When a person subject to this Act is sentenced by an Assam Rifles Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Force or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(2) When a person subject to this Act is sentenced by an Assam Rifles Court to death, this Act shall apply to him till the sentence is carried out.

Place of trial.

101. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

Choice
between
criminal court
and Assam
Rifles Court.

102. When a criminal court and an Assam Rifles Court each have jurisdiction in respect of an offence, it shall be in the discretion of the Director-General, or the Inspector-General or the Deputy Inspector-General within whose command the accused person is serving or such other officer as may be prescribed, to decide before which court proceedings shall be instituted, and, if that officer, decides that they shall be instituted before an Assam Rifles Court, to direct that the accused person shall be detained in Force custody.

Power of
criminal court
to require
delivery of
offender.

103. (1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 102 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(2) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.

CHAPTER IX

PROCEDURE OF ASSAM RIFLES COURTS

104. At every General Assam Rifles Court or Petty Assam Rifles Court, the senior member shall be the presiding officer.

Presiding officer.

105. Every General Assam Rifles Court shall, and every Petty Assam Rifles Court may, be attended by a Law Officer, or if no such officer is available, an officer approved by the Chief Law Officer or a Law Officer.

Law Officer.

106. (1) At all trials by a General Assam Rifles Court or by a Petty Assam Rifles Court, as soon as the Court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

Challenger.

(2) If the accused objects to such officer, his objection and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner, by another officer subject to the same right of the accused to object.

(4) When no challenge is made, or when a challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

107. (1) An oath or affirmation in the prescribed manner shall be administered to every member of an Assam Rifles Court and to the Law Officer or, as the case may be, the officer approved under section 105 before the commencement of the trial.

Oath of member, Law Officer and witness.

(2) Every person giving evidence before an Assam Rifles Court shall be examined after being duly sworn or affirmed in the prescribed form.

(3) The provisions of sub-section (2) shall not apply where the witness is a child under twelve years of age and the Assam Rifles Court is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

Voting by members.

108. (1) Subject to the provisions of sub-sections (2) and (3), every decision of an Assam Rifles Court shall be passed by a majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(2) No sentence of death shall be passed by a General Assam Rifles Court without the concurrence of at least two-thirds of the members of the Court.

(3) In matters, other than a challenge or the finding or sentence, the presiding officer shall have a casting vote.

General rule as to evidence.

109. The Indian Evidence Act, 1872 shall, subject to the provisions of this Act, apply to all proceedings before an Assam Rifles Court.

Judicial notice.

110. An Assam Rifles Court may take judicial notice of any matter within the general knowledge of the members as officers of the Force.

Summoning of witness.

111. (1) The convening officer, the presiding officer of an Assam Rifles Court or court of inquiry or the Law Officer or, as the case may be, the officer approved under section 105 or

the Commandant of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness, who is subject to this Act, the summons shall be sent to his Commandant and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such Magistrate shall give effect to the summons as if the witness were required in the court of such Magistrate.

Documents exempted from production.

112. (1) Nothing in section 111 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

1 of 1872.

(2) If any document in such custody is, in the opinion of any Chief Judicial Magistrate, Chief Metropolitan Magistrate, Court of Session or High Court, wanted for the purpose of any Assam Rifles Court, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate, or Court may direct.

(3) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause such search to be made for, and to detain such document pending the orders of any such Chief Judicial Magistrate, Chief Metropolitan Magistrate or Court of Session or High Court.

Commission for examination of witness.

113. (1) Whenever, in the course of a trial by an Assam Rifles Court, it appears to the Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Chief Law Officer in order that a commission to take the evidence of such witness may be issued.

(2) The Chief Law Officer may then, if he thinks necessary, issue a commission to any Chief Judicial Magistrate or Judicial Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Chief Judicial Magistrate or Judicial Magistrate of the first class to whom the commission is issued, or, if he is the Chief Judicial Magistrate, he or such Judicial Magistrate of the first class as he appoints in this behalf, shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in the trials of warrant-cases under the Code of Criminal Procedure, 1973.

2 of 1974.

(4) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in sub-heading "B.—Commissions for the examination of witnesses" of Chapter XXIII of the Code of Criminal Procedure, 1973.

2 of 1974.

Examination of witness on commission.

114. (1) The prosecutor and the accused person in any case in which a commission is issued under section 113 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Chief Judicial Magistrate or the Judicial Magistrate of the first class executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such Chief Judicial Magistrate or the Judicial Magistrate of the first class by counsel or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(3) After a commission issued under section 113 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder to the Chief Law Officer.

(4) On receipt of a commission, and deposition returned under sub-section (3), the Chief Law Officer shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(5) In every case in which a commission is issued under section 113, the trial may be adjourned for specified time reasonably sufficient for the execution and return of the commission.

115. A person charged before an Assam Rifles Court—

(a) with desertion may be found guilty of attempting to desert or of being absent without leave;

(b) with attempting to desert may be found guilty of being absent without leave;

(c) with using criminal force may be found guilty of assault;

(d) with using threatening language may be found guilty of using insubordinate language;

(e) with any one of the offences specified in clauses (a), (b), (c) and (d) of section 39 may be found guilty of any other of these offences with which he might have been charged;

(f) with an offence punishable under section 55 may be found guilty of any other offence of which he might have been found guilty, if the provisions of the Code of Criminal Procedure, 1973, were applicable;

(g) with any offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment;

(h) with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

of 1974.

Conviction of
offences not
charged.

116. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

Presumption
as to
signatures.

117. (1) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

Enrolment
paper.

(2) The enrolment of such person may be proved by the production of the original or a copy of this enrolment paper purporting to be certified to be a true copy by the officer having custody of enrolment paper.

118. (1) A letter, return or other document respecting the service of any person in, or the dismissal, removal or discharge of any person from, any unit of the Force, or respecting the circumstances of any person not having served in, or belonged to any unit of the Force, if purporting to be signed by or on behalf of the Central Government or the Director-General, or by any prescribed officer, shall be the evidence of facts stated in such letter, return or other document.

Presumption
as to certain
documents.

(2) An Assam Rifles list or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers, subordinate officers therein mentioned, and

of any appointment held by them and of the battalion, unit or branch of the Force to which they belong.

(3) Where a record is made in any battalion book in pursuance of this Act or of any rules or otherwise in the discharge of official duties, and purporting to be signed by the Commandant or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(4) A copy of any record in any battalion book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any unit of the Force, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer or by the Commandant of the unit to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be the evidence of the matters so stated.

(6) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating facts, the date and place of such surrender or apprehension, and the manner in which he was dressed shall be evidence of the matters so stated.

(7) Any document purporting to be the report under the hand of a Government scientific expert, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquiry, trial or other proceeding under this Act.

(8) The Assam Rifles Court may, if it thinks fit, summon and examine the expert referred to in sub-section (7) as to the subject matter of his report.

(9) Where any such expert is summoned by an Assam Rifles Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such deputed officer is conversant with the facts of the case and satisfactorily depose in the Court on his behalf.

(10) The provisions of sub-sections (7), (8) and (9) shall apply to such Government scientific experts as specified in sub-section (4) of section 293 of the Code of Criminal Procedure, 1973.

2 of 1974.

Reference by accused to Government officer.

119. (1) If at any trial for desertion or absence without leave, overstaying leave or not rejoicing when warned for service, the accused person states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn the proceedings until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the Court.

(3) If the Court is dissolved before the receipt of such reply or if the Court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

Evidence of previous convictions and general character.

120. (1) When any person subject to this Act has been convicted by an Assam Rifles Court of any offence, such Assam Rifles Court may inquire into, and receive, and record evidence of any previous convictions of such person, either by an Assam Rifles Court or by a criminal court, or any previous award of punishment under section 62 or section 64 or

section 65 or section 66, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, books of an Assam Rifles Court, or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a Summary Assam Rifles Court, the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

121. (1) Whenever, in the course of a trial by an Assam Rifles Court, it appears to the Court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the Court shall record a finding accordingly.

Lunacy of accused.

(2) The presiding officer of the Court, or in the case of a Summary Assam Rifles Court, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its findings under section 137, as the case may be.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another Assam Rifles Court for the offence with which he was charged.

(4) The authority to whom the finding of a Summary Assam Rifles Court is reported under sub-section (2), and a confirming officer confirming the finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4), the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

122. Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 121, any officer prescribed in this behalf, may,—

Subsequent fitness of lunatic accused for trial.

(a) if such person is in custody under sub-section (4) of section 121, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in a jail under sub-section (5) of section 121 on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section, on a certificate of any two or more of the visitors of such asylum and if he is detained in any other place under that sub-section, on a certificate of the prescribed authority, that he is capable of making his defence,

take steps to have such person tried by the same or another Assam Rifles Court for the offence with which he was originally charged or, if the offence is a civil offence, by a criminal court.

123. A copy of every order made by an officer under section 122 for the trial of the accused shall forthwith be sent to the Central Government.

Transmission to Central Government of orders under section 122.

124. Where any person is in custody under sub-section (4) of section 121 or under detention under sub-section (5) of that section,—

Release of lunatic accused.

(a) if such person is in custody under the said sub-section (4), on the report of a medical officer, or

(b) if such person is detained under the said sub-section (5), on a certificate from any of the authorities mentioned in clause (b) of section 122 that in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been to such an asylum.

Delivery of lunatic accused to relatives.

125. Where any relative or friend of any person who is in custody under sub-section (4) of section 121 or under detention under sub-section (5) of that section desires that he should be delivered to his care and custody, the Central Government may, upon application by such relative or friend and, on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of, and, prevented from doing injury to himself or to any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

Order for custody and disposal of property pending trial.

126. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before an Assam Rifles Court during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold otherwise disposed of.

Order of disposal of property regarding which offence is committed.

127. (1) After the conclusion of a trial before any Assam Rifles Court, the Court or the officer confirming the finding or sentence of such Assam Rifles Court, or any authority superior to such officer, or, in the case of Summary Assam Rifles Court whose finding or sentence does not require confirmation, an officer not below the rank of Deputy Inspector-General within whose command the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the Court or in its custody, or regarding which any offence appears to have been committed or which has been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1973.

2 of 1974.

(3) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

Powers of Assam Rifles Court in relation to proceedings under this Act.

128. Any trial by an Assam Rifles Court under the provisions of the Act shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code and the Assam Rifles Court shall be deemed to be the Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

45 of 1860.
2 of 1974.

CHAPTER X

CONFIRMATION AND REVISION

Finding and sentence not valid unless confirmed.

129. No finding or sentence of a General Assam Rifles Court or a Petty Assam Rifles Court shall be valid except so far as it may be confirmed as provided by this Act.

130. The findings and sentences of General Assam Rifles Courts may be confirmed by the Central Government or by any officer empowered in this behalf by warrant of the Central Government.

Power to confirm finding and sentence of General Assam Rifles Court.

131. The findings and sentences of Petty Assam Rifles Courts may be confirmed by an officer having power to convene a General Assam Rifles Court or by any officer empowered in this behalf by warrant of such officer.

Power to confirm finding and sentence of Petty Assam Rifles Court.

132. A warrant issued under section 130 or section 131 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Limitation of powers of confirming authority.

133. Subject to such restrictions, reservations or conditions, as may be contained in any warrant issued under section 130 or section 131, a confirming authority may, when confirming the sentence of an Assam Rifles Court, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishment lower in the scale laid down in section 57.

Power of confirming authority to mitigate, remit or commute sentences.

134. When any person subject to this Act is tried and sentenced by an Assam Rifles Court while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

Confirming of findings and sentences on board a ship.

135. (1) Any finding or sentence of an Assam Rifles Court which requires confirmation may be once revised by order of the confirming authority and on such revision, the Court, if so directed by the confirming authority, may take additional evidence.

Revision of finding or sentence.

(2) The Court, on revision, shall consist of the same officers as were present when the original decision was passed unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the Court shall proceed with the revision:

Provided that, if a General Assam Rifles Court, still consists of five officers, or, if a Petty Assam Rifles Court, of three officers.

136. (1) Save as otherwise provided in sub-section (2), the finding and sentence of a Summary Assam Rifles Court shall not require to be confirmed, but may be carried out forthwith.

Finding and sentence of a Summary Assam Rifles Court.

(2) If the officer holding the trial is of the rank of Deputy Commandant or of a rank declared under clause (a) of sub-section (5) of section 96 as equivalent thereto or of a lower rank and has held such rank for less than five years, he shall not, except on active duty, carry into effect any sentence, until it has received the approval of an officer not below the rank of a Deputy Inspector-General.

137. The proceedings of every Summary Assam Rifles Court shall, without delay, be forwarded to the officer not below the rank of Deputy Inspector-General within whose command the trial was held, or to the prescribed officer, and such officer or the Director-General or any officer empowered by him in this behalf may, for reasons based on the merits of the case, but not on merely technical grounds, set aside the proceedings, or reduce the sentence to any other sentence which the court might have passed.

Transmission of proceedings of Summary Assam Rifles Court.

Alteration of finding or sentence in certain cases.

138. (1) Where a finding of guilty by an Assam Rifles Court, which has been confirmed or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 150 to commute the punishment awarded by the sentence, if the finding had been valid may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the Assam Rifles Court on the charge and unless it appears that the Assam Rifles Court must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by an Assam Rifles Court which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1) is found for any reason to be invalid, the authority referred to in sub-section (1) may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishment than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(4) Any finding substituted, or any sentence passed, under this section shall, for the purpose of this Act and the rules, have effect as if it were a finding or sentence, as the case may be, of an Assam Rifles Court.

Remedy against order, finding or sentence of Assam Rifles Court.

139. (1) Any person subject to this Act who considers himself aggrieved by any order passed by any Assam Rifles Court may present a petition to the officer or authority empowered to confirm any finding or sentence of the Assam Rifles Court and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Assam Rifles Court which has been confirmed may present a petition to the Central Government, the Director-General or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the Director-General or the prescribed officer, as the case may be, may pass such order thereon as it or he thinks fit.

Annulment of proceedings.

140. The Central Government, the Director-General or any prescribed officer may annul the proceeding of any Assam Rifles Court on the ground that they are illegal or unjust.

CHAPTER XI

EXECUTION OF SENTENCE, PARDON, REMISSION, ETC.

Form of sentence of death.

141. In awarding a sentence of death, an Assam Rifles Court shall in its discretion direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Commencement of sentence of imprisonment.

142. Whenever any person is sentenced by an Assam Rifles Court under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day in which the original proceedings were signed by the presiding officer, or in the case of a Summary Assam Rifles Court, by the Court:

Provided that when a person subject to this Act is sentenced by an Assam Rifles Court to a term of imprisonment, not being an imprisonment in default of payment of fine, the period spent by him in civil or Force custody during investigation, inquiry or trial of the same case, and before the date of order, such sentence shall be set off against the term of imprisonment imposed upon him and the liability of such person or officer to undergo imprisonment on such order of sentence shall be restricted to the remainder, if any, of the term of imprisonment imposed upon him.

- 143.** (1) Whenever any sentence of imprisonment is passed under this Act by an Assam Rifles Court or whenever any sentence of death is commuted to imprisonment, the confirming officer or in case of a Summary Assam Rifles Court, the officer holding the Court or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (3) and (4), direct that the sentence shall be carried out by confinement in a civil prison.
- (2) When a direction has been made under sub-section (1), the Commandant of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.
- (3) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by an Assam Rifles Court the appropriate officer under sub-section (1) may direct that the sentence shall be carried out by confinement in force custody instead of in a civil prison.
- (4) On active duty, a sentence of imprisonment may be carried out by confinement in such place as the Deputy Inspector-General within whose command the person sentenced is serving or any prescribed officer may from time to time appoint.
- 144.** Where a sentence of imprisonment is directed to be undergone in a civil prison, the offender may be kept in Force custody or in any other fit place till such time as it is possible to send him to a civil prison.
- 145.** Whenever, in the opinion of an officer not below the rank of Deputy Inspector-General within whose command the trial is held, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in Force custody in accordance with the provisions of section 143, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.
- 146.** A person under sentence of imprisonment may, during his conveyance from place to place, or when on board ship, aircraft or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.
- 147.** When an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed, to the officer in charge of the prison in which such person is confined.
- 148.** When a sentence of fine is imposed by an Assam Rifles Court under section 55, a copy of such sentence signed and certified by the confirming officer, or where no confirmation is required by the officer holding the trial may be sent to any Magistrate in India and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1973, as if it were a sentence of fine imposed by such Magistrate.
- 149.** Whenever any person is sentenced to imprisonment under this Act and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of informality or error in, or as respects the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or is confined in any such place, and any such order, warrant or document may be amended accordingly.
- 150.** When any person subject to this Act has been convicted by an Assam Rifles Court of any offence, the Central Government or the Director-General, or in the case of a sentence which he could have confirmed or which did not require confirmation, an officer not below the rank of Deputy Inspector-General within whose command such person at the time of conviction was serving or the prescribed officer may,—

Execution of sentence of imprisonment.

Temporary custody of offender.

Execution of sentence of imprisonment in special cases.

Conveyance of prisoner from place to place.

Communication of certain orders to prison officers.

Execution of sentence of fine.

Informality or error in order or warrant.

Pardon and remission.

- (a) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or
- (b) mitigate the punishment awarded; or
- (c) commute such punishment for any less punishment or punishments mentioned in this Act; or
- (d) either with or without conditions which the person sentenced accepts, release the person on parole.

Cancellation
of conditional
pardon,
release on
parole or
remission.

151. (1) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission, not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon, release or remission had not been granted.

(2) A person whose sentence of imprisonment is carried into effect under the provisions of sub-section (1) shall undergo only the unexpired portion of his sentence.

Suspension of
sentence of
imprisonment.

152. (1) Where a person subject to this Act is sentenced by an Assam Rifles Court to imprisonment, the Central Government, the Director-General or any officer empowered to convene a General Assam Rifles Court may suspend the sentence whether or not the offender has already been committed to prison or to Force custody.

(2) The authority or officer specified in sub-section (1) may, in the case of an offender so sentenced direct that until the order of such authority or officer have been obtained, the offender shall not be committed to prison or to Force custody.

(3) The powers conferred by sub-sections (1) and (2) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

Orders
pending
suspension.

153. (1) Where sentence referred to in section 152 is imposed by an Assam Rifles Court other than Summary Assam Rifles Court, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to Force custody until the orders of the authority or officer specified in section 152 have been obtained.

(2) Where a sentence of imprisonment is imposed by a Summary Assam Rifles Court, the officer holding the trial or the officer authorised to approve the sentence under sub-section (2) of section 136 may make the direction referred to in sub-section (1).

Release on
suspension.

154. Where a sentence is suspended under section 152 the offender shall forthwith be released from custody.

Computation
of period of
suspension.

155. Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

Order after
suspension.

156. The authority or officer specified in section 152 may, at any time while a sentence is suspended, order—

- (a) that the offender be committed to undergo the unexpired portion of the sentence; or
- (b) that the sentence be remitted.

Reconsideration
of case after
suspension.

157. (1) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 152 or by any officer not below the rank of a Deputy Inspector-General duly authorised by the authority or officer specified in section 152.

(2) Where on such reconsideration by the officer so authorised it appears to him that the conduct of offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 150.

158. Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then,—

(a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall be so committed to prison or to Force custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(c) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 156 or section 157, continue to be suspended.

159. The powers conferred by sections 152 and 156 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

160. (1) Where in addition to any other sentence the punishment of dismissal or removal has been awarded by an Assam Rifles Court, and such sentence is suspended under section 152, then, such dismissal or removal shall not take effect until so ordered by the authority or officer specified in section 152.

(2) If such other sentence is remitted under section 156, the punishment of dismissal or removal shall also be remitted.

Fresh sentence after suspension.

Scope of power of suspension.

Effect of suspension and remission on dismissal.

CHAPTER XII

MISCELLANEOUS

161. The Central Government or any other authority empowered in this behalf by that Government may, by a general or special order, make provisions for the disposal of the private or regimental property of any person subject to this Act or any other dues including provident fund of that person, who dies or deserts, or is ascertained to be of unsound mind or while on active duty is officially reported as missing.

Disposal of property of the members of the Force.

162. (1) The Central Government may, by general or special order published in the Official Gazette, direct that, subject to such conditions and limitations, and within the local limits of such area adjoining the border of India, as may be specified in the order, any member of the Force may,—

Powers and duties conferrable and imposable on members of the Force.

(a) for the purpose of prevention of any offence punishable under the Passport (Entry into India) Act, 1920, the Registration of Foreigners Act, 1939, the Central Excise Act, 1944, the Foreigners Act, 1946, the Customs Act, 1962, the Passports Act, 1967 or the Foreign Exchange Management Act, 1999 or of any cognizable offence punishable under any other Central Act; or

(b) for the purpose of apprehending any person who has committed any offence referred to in clause (a).

exercise or discharge such of the powers or duties under that Act or any other Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by that or such other Act empowered to exercise or discharge for the said purposes.

(2) The Central Government may, by general or special order published in the Official Gazette, confer or impose, with the concurrence of the State Government concerned, any of the powers or duties which may be exercised or discharged under a State Act by a police officer upon a member of the Force who, in the opinion of the Central Government, holds a corresponding or higher rank.

34 to 1920.
16 of 1939.
1 of 1944.
31 of 1946.
52 of 1962.
15 of 1967.
42 of 1999.

(3) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Protection for acts of members of the Force.

163. (1) The provision of section 125 of the Indian Evidence Act, 1872 shall apply to such members of the Force who exercise or discharge any power or duty under sub-section (1) of section 162 or on whom any power is conferred or duty is imposed under sub-section (2) of that section in the same manner as it applies to a police officer.

1 of 1872.

(2) In any suit or proceeding against any member of the Force for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead, that such act was done by him under the authority of such warrant or order.

(3) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved the member of the Force shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(4) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules, shall be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of such proceedings and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceedings.

Power of Central Government to remove difficulties.

164. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to make rules.

165. (1) The Central Government may, by notification, make rules for the purposes of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner of re-constitution of the Force and the conditions of service of the members of the Force under sub-section (2) of section 4;

(b) the mode of enrolment and the procedure for enrolment under sub-section (1) of section 6;

(c) the authority whose previous permission in writing is required for resigning from appointment or withdrawing from all or any of the duties under section 8;

(d) rank or ranks of an officer or a subordinate officer referred to under sub-section (2) of section 11;

(e) the authority who shall give previous sanction in writing under sub-section (1) of section 13;

- (f) nature of communication or publication under clause (e) of sub-section (1) of section 13;
- (g) other purposes of meeting or demonstration under sub-section (2) of section 13;
- (h) form of enrolment under section 31;
- (i) any other purpose under clause (h) of sub-section (1) of section 57;
- (j) the officer who may direct that an enrolled person who has been sentenced to dismissal or imprisonment whether combined with dismissal or not may be retained to serve in the ranks under section 60;
- (k) the manner of proceedings against a person and the extent of awarding punishment under section 62;
- (l) the manner of proceeding against an officer below the rank of a Deputy Commandant and of the rank of subordinate officer and of the rank of Warrant Officer under sub-section (1) of section 64;
- (m) the manner of forwarding certified true copies of the proceedings and the superior authority to whom such copies shall be forwarded under sub-section (2) of section 64;
- (n) the manner of proceeding against an officer below the rank of Commandant and of any rank of subordinate officer and of the rank of Warrant Officer under sub-section (1) of section 65;
- (o) the manner of proceeding against any subordinate officer or a Warrant Officer under section 66;
- (p) the officer by whose order any sum is required to be paid, for the maintenance of wife or legitimate or illegitimate child of a person subject to this Act other than an officer, under clause (i) of section 69;
- (q) the officer who may direct that the whole or any part of the pay and allowances of person subject to this Act shall be withheld under section 71;
- (r) the manner and the extent of remission of deductions from pay and allowances authorised by this Act and the authority by which such remission shall be made under section 75;
- (s) the authorities by whom proper provision to be made out of the pay and allowances of all persons subject to this Act, being prisoners of war, for the dependents of such persons under section 76;
- (t) the authorities who shall make proper provision out of the pay and allowances of any person subject to this Act, who is prisoner of war or is missing under section 77;
- (u) the manner in which and the period for which any person subject to this Act may be taken into and detained in Force custody under sub-section (4) of section 80;
- (v) the manner of making special report giving reasons for delay under section 81;
- (w) the authority to appoint, and the manner of appointment of, a court of inquiry; the manner of administering oath or affirmation by such court of inquiry and the manner of making record under sub-section (1) of section 84;
- (x) the officer who may appoint Force Police under sub-section (1) of section 85;
- (y) the other officer having the discretion to decide before which court the proceeding shall be instituted under section 102;

- (z) the manner of filling up the vacancy of member by another officer under sub-section (3) of section 106;
- (za) the manner for administering oath or affirmation to every member of an Assam Rifles Court and to the Law Officer, or, as the case may be, the officer approved under section 105 before the commencement of the trial, under sub-section (1) of section 107;
- (zb) the form for being duly sworn or affirmed under sub-section (2) of section 107;
- (zc) the officer by whom the letter, return or other documents purported to be signed shall be the evidence of the facts stated in such letter, return or other document under sub-section (1) of section 118;
- (zd) the other matters to be further inquired and recorded under sub-section (1) of section 120;
- (ze) the other matters to be recorded under sub-section (3) of section 120;
- (zf) the manner of keeping in custody of the accused person under sub-section (4) of section 121;
- (yg) the officer who may take steps to have certain persons tried under section 122;
- (zh) the authority for issuing certificate in case of detention in any other place under clause (b) of section 122;
- (zi) the officer to whom the proceedings of every Summary Assam Rifles Courts shall be forwarded under section 137;
- (zj) the officer superior in command, to the one who confirmed the findings or sentence referred to in sub-section (2) of section 139, to whom petition may be presented under that sub-section;
- (zk) the officer who may annul the proceeding of any Assam Rifles Court under section 140;
- (zl) the other officer who shall direct that sentence shall be carried out by the confinement in a civil prison under sub-section (1) of section 143;
- (zm) the officer who shall forward a warrant and the form of such warrant under sub-section (2) of section 143;
- (zn) the officer who may from time to time appoint the place of confinement under sub-section (4) of section 143;
- (zo) the other person by whom the warrant shall be forwarded to the officer in charge of the prison under section 147;
- (zp) the officer who may pardon or exercise other powers as specified under clauses (a) to (c) of section 150;
- (zq) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

166. The Director-General may make regulations for all or any of the purposes of this Act other than those specified in section 165, subject to approval of the Central Government.

Rules and regulations to be laid before Parliament.

167. Every rule or regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session, or the successive sessions

aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Repeal and savings.

1st 1941. 168. (1) The Assam Rifles Act, 1941 is hereby repealed.

(2) Notwithstanding such repeal,—

(a) the Assam Rifles in existence at the commencement of this Act and constituted under the Act so repealed shall be deemed to be reconstituted under this Act;

(b) members of the Assam Rifles in existence at the commencement of this Act and appointed under the Act so repealed shall be deemed to have been appointed or, as the case may be, enrolled as such under this Act;

(c) any appeal, application, trial, inquiry or investigation pending immediately before the commencement of this Act shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Assam Rifles Act, 1941, as if this Act had not come into force;

(d) any thing done or any action taken before the commencement of this Act, in relation to any person appointed or enrolled, shall be valid and as effective in law as if such thing or action was done or taken under the corresponding provisions of this Act.

K.N.CHATURVEDI,
Secy. to the Govt. of India.

THE CENTRAL INDUSTRIAL SECURITY FORCE
ACT, 1968
No.50 of 1968

(As modified vide Act No.14 of 1983,
20 of 1989 and 40 of 1999)

An Act to Provide for the constitution and regulation of an armed force of the Union for the better protection and security of Industrial Undertakings owned by the Central Government and certain other Industrial Undertaking, employees of all such Industrial Undertakings and to provide technical consultancy service to industrial establishments in the private sector and for matters connected therewith) Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows :-

1. Short title, extent and commencement - (1) This Act may be called the Central Industrial Security Force Act, 1968.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions (1) In this Act, unless the context otherwise requires -

(a) "Director-General" means the Director-General of the Force appointed under section 4;

(aa) "Enrolled member of the force" means any subordinate officer, under officer or any other member of the Force of a rank lower than that of an under officer;

(ab) "Force" means the Central Industrial Security Force Intuited under section 3; (ac) "Force custody" means the arrest or confinement of a member of the Force in accordance with rules made under this Act.

(b) "Industrial Undertaking" means any undertaking pertaining to a scheduled industry and includes an Undertaking engaged in any other industry, or in any trade, business or service which may be regulated by Parliament by law;

(c) "Industrial Undertaking in public sector" means an Industrial Undertaking owned, controlled or managed by -

(i) a Government company as defined in section 617 of the Companies Act 1956.

(ii) a corporation established by or under a Central Provincial or State Act, which is controlled or managed by the Government.

(ca) "industrial establishment" means an industrial undertaking or a company as defined under section 3 of the Companies Act, 1956 or a firm registered under section 59 of the India Partnership Act, 1932 which is engaged in any industry, or in any trade, business or service.

(d) Omitted...

(e) 'Managing Director' in relation to an Industrial Undertaking, means the person (whether called a managing agent, general manager, manager, chief executive officer or by any other name) who exercises control over the affairs of that undertaking;

(f) 'Members of the Force" means a person appointed to the Force under his Act..

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

(h) "Schedule Industry" means any industry engaged in the manufacture or production of the articles mentioned in the First Schedule to the Industries (Development and Regulation) Act. 1951); (65 of 1951)

(ha) "Subordinate Officer" means a person appointed to the Force as an Inspector, a Sub-Inspector or an Asstt. Sub. Inspector.

(i) "Supervisory Officer" means any of the officers appointed under Section 4 and includes any other officer appointed by the Central Government as a Supervisory Officer of the Force.

(j) "Under Officer" means a person appointed to the Force as a Head constable.

(2) Any reference in this Act to a law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area."

3. Constitution of the Force :- (1) There shall be constituted and maintained by the Central Government an Armed Force of the Union to be called Central Industrial Security Force for the better protection and

security of Industrial undertakings owned by that Government and to perform such other duties entrusted to it by the Central Government.

(2) The Force shall be constituted in such manner, shall consist of such number of "Supervisory Officers, Subordinate Officers, under Officers and other enrolled Members" of the Force who shall receive such pay and other remuneration as may, be prescribed.

4. Appointment and powers of supervisory officers :-(1) The Central Government may appoint a person to be the Director General of the Force and may appoint other persons to be Inspectors General, Deputy Inspector General, Commandants, Deputy Commandants or Assistant Commandants of the Force.

(2) The "Director General" and every other supervisory officers so appointed shall have, and may exercise such powers and authority as provided by or under this Act.

5. Appointment of enrolled members of the Force :- The "Appointment of the Enrolled Members of the force shall rest with the Director General" who shall exercise the powers in accordance with rules made under this Act. Provided that the powers of appointment under this section may also be exercised by such other supervisory officer as the Central Government may by order specify in this behalf.

6. Certificates of Members of the Force:- (1) Every enrolled members of the Force shall receive on his appointment a certificate in the form specified in the Schedule, under the seal of the Director-General or such other supervisory officer as the Director General may specify in this behalf, by virtue of which the person holding such certificate shall be vested with the powers of an enrolled member of the Force.

(2) Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be "an enrolled member" of the Force.

7. Superintendence and administration of the Force :-(1) The perintendance of the Force shall vest with the Central Government, and subject thereto and to the provision of this Act and of any rules

made there under the command, supervision and administration of the Force shall vest in the Director General".

(2) Subject to the provisions of sub-section (1) the administration of the Force within such local limits as, may be prescribed shall be carried on by "An Inspector General, a Deputy Inspector General, a Commandant, a Deputy Commandant or an Assistant Commandant" in accordance with the provisions of this Act and of any rules made there under and every supervisory officer placed in charge of the protection and security of an industrial Undertaking shall, subject to any direction that may be given by the Central Government or the Director General in this behalf, discharge his functions under the general supervision, direction and control of the Managing Director of that Undertaking.

8. Dismissal, removal etc. of enrolled members of the Force :- Subject to the provisions of article 311 of the Constitution and to such rules as the Central Government may make under this Act supervisory officer may --(i) dismiss, remove, order of compulsory retirement or reduce in rank any "enrolled" member of the Force whom he thinks remiss or negligent in the discharge of his duty, or unfit for the same; or (ii) award any one or more of the following punishments to any "enrolled" member of the Force who discharge his duty in a careless or negligent manner, or who by any act of his own renders himself unfit for the discharge thereof, namely :-

- (a) fine to any amount not exceeding seven days pay or reduction in pay scale;
- (b) drill, extra guard, fatigue or other duty.
- (c) removal from any office or distinction or deprivation of any special emolument.
- (d) withholding of increment of pay with or without cumulative effect.
- (e) withholding of promotion.
- (f) Censure

9. Appeal and revision:- (1) Any "enrolled" member of the Force aggrieved by an order made under section 8 may within thirty days from the date on which the order is communicated to him prefer an appeal against the order

to such authority as may be prescribed, and subject to the provisions of sub section (2A), sub section (2B) and sub-section (3), the

decision of the said authority thereon shall be final: Provided that the prescribed authority may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

2) In disposing of an appeal the prescribed authority shall follow such procedure as may be prescribed.(2A) Any enrolled members of the Force aggrieved by an order passed in appeal under sub-section (1) may,within a period of six months from the date on which the order is communicated to him, prefer a revision petition against the order to such authority as may be prescribed and in disposing of the revision petition, the said authority shall follow such procedure as may be prescribed.

(2B) The authority, as may be prescribed for the purpose of this sub-section, on a revision petition preferred by an aggrieved enrolled member of the Force or suo moto, may call for, within a prescribed period, the records of any proceeding under section 8 of sub-section(2) or sub-section (2A) and such authority may, after making inquiry in the prescribed manner, and subject to the provisions of this Act, pass such order thereon as it thinks fit."

(3) The Central Government may call for an examine the record of any proceeding under section 8 or under sub-section (2), sub section (2A) or sub section (2B) of this section and may make such inquiry or cause such inquiry to be made and subject to the provisions of this Act, may pass such order thereon as it thinks fit;Provided that no order imposing an enhanced penalty under sub-section (2) or sub-section (3) shall be made unless a reasonable opportunity of being heard has been given to the person affected by such order.

10. Duties of member of the Force:- It shall be the duty of every member of the Force -a) Promptly to obey and execute all orders lawfully issued to him by his superior authority.

(b) to protect and safeguard the Industrial Undertaking owned by the Central Government together with such other installations as are specified by that Government to be vital for the carrying on of work in those Undertakings, situate within the local limits of his jurisdiction: Provided that before any installation not owned or controlled by the Central Government is so specified, the Central Government shall obtain the consent of the Government of the State in which such installation is situate;

(c) to protect and safeguard such other Industrial Undertakings and installation for the protection and security of which he is deputed under section 14;

(d) to protect and safeguard the employees of the Industrial Undertakings and installations referred to in clauses (b) and (c)

(e) to do any other act conducive to the better protection and security of the industrial undertakings and installations referred to in clauses (b) and (c) and the employees referred in clause (d). (f) to provide technical consultancy services relating to security of any private sector industrial establishment under section 14A.

(g) to protect and safeguard the organizations owned or funded by the Govt and the employees of such organizations as may be entrusted to him by the Central Govt.

(h) any other duty which may be entrusted to him by the Central Govt. from time to time.

11. Power to arrest without warrant :-

(1) Any member of the Force may, without any order from a magistrate and without a warrant, arrest -

(i) any person who voluntarily cause hurt to, or attempts untrarily to cause hurt to, or wrongfully restrains or attempts wrongfully to restrain or assaults, or uses, or threatens or attempts to use

(criminal force to any employee, referred to in clause (d) of section 10, or to him or any other member of the Force, in discharge of his duty as such employee or in execution of his duty as such member, as the case may be, or with intention to prevent or to deter him from discharging his duty as such member, or in consequence of anything done or attempted to be done by him in the lawful discharge of his duty as such member.

(ii) any person who has concerned in, or against whom a reasonable suspicion exists of his having been concerned in or who is found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing, a cognizable offence which relates to property longing, to or in the premises of any Industrial Undertaking referred to in clause (b) and (c) of section 10, or relates to the other installations, or to property in the premises of the other installations, referred to in those clauses;

(iii) any persons who commits or attempts to commit a cognizable offence which involves or which is likely to involve danger to the life of any person engaged in carrying on any work relating to any Undertaking or installations referred to in clauses (b) and (c) of section 10.

(2) If any person is found trespassing on the premises of any Industrial Undertaking referred to in clauses (b) and (c) section 10, he may without prejudice to any other proceedings which may be taken against him be removed from such premises by any member of the Force.

12. Power to search without warrant :- (1) Whenever any member of the Force not below the prescribed rank has reason to believe that any such offence as is referred to in section 11 has been or is being committed and that a search warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence, he may detain the offender and search his person and belongings forthwith and, if he thinks proper, arrest any person whom he has reason to believe to have committed the offence.

(2) The provisions of the Code of Criminal Procedure, 1973(2 of 1974) relating to searches under that Code shall, so far as may be, apply to searches under this section.

13. Procedure to be followed after arrest :- Any member of the Force making an arrest under this Act, shall, without unnecessary delay, make over the person so arrested to a police officer, or in the absence of a police officer, take such person or cause him to be taken to the nearest police station together with a report of the circumstances occasioning the arrest.

14. Deputation of the Force to Industrial undertaking in public sector :- (1) Subject to any general directions which may be issued, by the Central Government, it shall be lawful for the Director General on a request received in this behalf from the Managing Director concerned, of an industrial Undertaking in public sector showing the necessity there of to depute such number of members of the Force as the Director General may consider necessary for the protection and security of that industrial undertaking and any installations attached thereto and the members of the Force so deputed shall be at the charge the Managing Director. Provided that in the case of an Undertaking owned, controlled or managed :

(i) by a Government company of which the Central government is not a member.

(ii) by a corporation established by or under a Provincial or State Act. No such request shall be entertained unless it is made with the consent of the Government of the State in which the Undertaking is situate.

(2) If the Director General is of the opinion that circumstance necessitating the deputation of the member of the Force in relation to an Industrial Undertaking under sub section (1) have ceased to exist or for any other reason it is necessary so to do, he may, after informing the Managing Director of that Industrial Undertaking, withdraw the member of the Force so deputed. Provided that the Managing Director may, on giving one month's notice in writing to the Director General that the members of the Force so deputed shall be withdrawn, and the Managing Director shall be relieved from the charge from the date of expiration of such notice or from any earlier date on which the Force is so withdrawn.

(3) Every member of the Force, which discharging his functions during the period of deputation, shall continue to exercise the same powers and be subject to the same responsibilities, discipline and penalties as would have been applicable to him under this Act, if he had been discharging those functions in relation to an industrial undertaking owned by the Central Government.

14A(I) Subject to any general directions which may be issued by the Central Govt. it shall be lawful for the Director General, on a request received from the Managing Director of an industrial establishment in the private sector or any other person authorized by him in his behalf, to direct the members of the Force to provide technical consultancy services relating to security, to such industrial establishments in such manner and on payment of such fee as may be prescribed.

(2) The fee received under sub-section (1) shall be credited to the Salivated Fund of India. Explanation - For the purpose of this section, the expression "Managing Director" in relation to an industrial establishment, means the person (whether called general manager, manager, chief executive officer, or a partner of a firm or by any other name) who exercises control over the affairs of the establishment."

15. Officers and Members of the Force to be considered always on duty and liable to be employed anywhere in India :-(1)

Every member of the Force shall, for the purpose of this Act, be considered to be always on duty, and shall, at any time be liable to be employed at any place within India.

(2) Save as provided in section 14, no member of the Force shall engage himself in any employment of office other than his duties under this Act.

15A. Restrictions respecting right to form association etc :- (1) No member of the Force shall, without the previous sanction in written of the Central Government or the prescribed authority,

(a) be a member of, or be associated in any way with, any trade union, labour union, political associations or with any class or 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 organization that is not recognized as part 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 the bona fide discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature :

Explanation :- In any question arises as to whether any society institution association or organization is of a purely social, recreational or religious nature under clause (b) of this sub-section the decision of the Central Government thereon shall be final.

(2) No member of the Force shall participate in, or address, any meeting or take part in any demonstration organized by any body of person for any political purposes or for such other purposes as may be prescribed.

16. Responsibilities of member of the Force during suspension :- A member of the Force shall not by reason of his suspension from office ceases to be a member of the Force and he shall during that period, be subject to the same responsibilities, discipline and penalties to which he would have been subject if he were on duty.

17. Surrender of certificate arms etc. by persons ceasing to be members of the Force :-

(1) Every person who for any reason ceases to be 'an enrolled' member of the Force, shall forthwith surrender to any supervisory officer empowered to receive the same, his certificate of appointment, the arms, accoutrements, clothing and other articles which have been furnished to him for the performance of duties as an enrolled member of the Force.

(2) Any person who willfully neglects or refuse to surrender his certificate of appointment or the arms, accoutrements, clothing and other articles furnished to him, as required by sub-section (1) shall on conviction, be punished with imprisonment for a terms which may extend to one month or with fine which may extend to two hundred rupees, or with both.

(3) Nothing in this section shall be deemed to apply to any article which, under the orders of the Director General, has become the property of the person to whom the same was furnished.

18. Penalties for neglect of duty etc :-

(1) Without prejudice to the provisions contained in section 8, every member of the Force who shall be guilty of any violation of duty or wilful breach or neglect of any Rule or regulations or lawful orders made by a

Supervisory officer, or who shall withdraw from the duties of his office without permission, or who, being absent on leave, fails without reasonable cause, to report himself for duty on the expiration of the leave, or who engages himself without authority in any employment other than his duty as a member of the Force or who shall be guilty of cowardice, may be taken into Force custody and shall, on conviction, be punished with imprisonment for a term which may extend to one year.

(2) Notwithstanding anything contained, in the Code of Criminal Procedure, 1973 (2 at 1974) an offence punished under this section shall be cognizable and non-bail able.

(2A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Central Government may invest the Commandant with the powers of a Magistrate of any class for the purpose of inquiry into or trying any offence committed by an enrolled member of the Force and punishable under this Act, or any offence committed by an enrolled member of the Force against person or property of another member of the Force.

Provided that --

- (i) When the offender is on leave or absent from duty; or
- (ii) when the offence is not connected with the offender's duties as an enrolled member of the Force; or
- (iii) when it is petty offence even if connected with the offender's duties as an enrolled member of the Force; or
- (iv) when, for reason to be recorded in writing, it is not practicable for the Commandant invested with the powers of a Magistrate to inquire into or try an offence, the offence may, if the prescribed authority within the limits of whose jurisdiction the offence has been committed so requires, be inquired into or tried by an ordinary Criminal Court having jurisdiction in the matter.

(3) Nothing contained in this section shall be construed to prevent any member of the Force from being prosecuted under any other law for any offence made punishable by that law, or for being liable under any such law to any other or higher penalty or punishment than is provided for such offence by this section.

Provided that no person shall be punished twice for the same offence.

19. Application of Act 22 of 1922 to member of the Force:- The Police (Incitement to Disaffection) Act, 1922, shall apply to members of the Force as it applies to member of a Police Force.

20. Certain Acts not to apply to Members of the Force :- Nothing contained in the payment of wages Act, 1936, or the Industrial Disputes Act 1947, on the Factories Act 1948, or any corresponding law relating to investigation and settlement of industrial disputes in force in a State shall apply to member of the Force.

21. Protection of acts of members of the Force :- (1) In any suit or proceeding against any member of the Force for any act done by him in the discharge of his duties, it shall be lawful for him to plead that such act was done by him under the order of a competent authority.

2. Any such plea may be proved by the production of the order directing and it is so proved, the member of the Force shall thereupon be discharged from any liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such order.

3. Notwithstanding anything contained in any other law for the time being in force, any legal proceeding, whichever civil or criminal, which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of, any provisions of this Act or the Rules there under shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such proceeding and of the cause thereof shall be given to the person concerned and his supervisory officer at least one month before the commencement of such proceeding.

22. Power to make rules :- (1) The Central Government may, by notification in the Official Gazette, 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 -

(a) regulating the classes, ranks grades, pay and remuneration of members of the Force and their conditions of service in the Force;

(b) regulating the powers and duties of members of the Force authorised to exercise any functions by or under this Act;

(c) fixing the period of service for Members of the Force.

(d) prescribing the description and quantity of arms, accoutrements, clothing and necessary articles to be furnished to the Members of the Force;

(e) prescribing the place of residence of members of the Force;

(f) institution, management and regulations by any fund for any purpose connected with the administration of the Force;

(g) regulating the punishments and prescribing authorities to whom appeals shall be preferred from orders of punishment or remission of fines or other punishments, and the procedure to be followed for the disposal of such appeals;

(gg) regulating matters with respect to Force custody under this Act including the procedure to be followed for taking person into such custody;

(ggg) regulating matters with respect to disposal of cases relating to offences under this Act and specifying the places in which person convicted under this Act may be confined;

(gggg) prescribing authority under sub-section (2A) of section 9 and the procedure to be followed by such authority in disposing of the revision petition;

(ggggg) prescribing authority under sub-section (2B) of section 9, the period within which such authority may call for the records and the manner in which such authority may make inquiry."

(h) the terms and conditions subject to which member of the Force may be deputed under section 14 and the charges there for;

(hh) the manner in which and the fee on payment of which the technical consultancy services shall be provided under sub-section (1) of section 14A; and

(i) any other matter which has to be or may be prescribed or in respect of which rules are required to be made under this Act.

(3) Every rules made under this section shall be laid as soon as possible may be after it is made before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions and before its expiry of the session immediately following the session or the successive aforesaid both House agree in making any modification in the rule, or both Houses

agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so however, that

any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE
(See Section 6)

A. B. has been appointed an enrolled member of the Central Industrial Security Force under the Central Industrial Security Force Act, 1968, and is vested with the powers, functions and privileges of an enrolled member of the Force.

APPENDIX
THE CENTRAL INDUSTRIAL SECURITY FORCE
(AMENDMENT) ACT, 1983
(14 of 1983)

14. (1) The force constituted under the Principal Act as functioning immediately before the commencement of this Act (hereafter in this section referred to as the existing Force) shall, on such commencement, be deemed to be the force constituted under the principal Act amended by this Act, and every member of the existing force holding immediately before such commencement an office mentioned in column (1) of the Table below shall, on such commencement, be deemed to have been appointed to the office mentioned in the corresponding entry in column (2) of the said Table.

TABLE

1. Chief Security Officer	Commandant
2. Deputy Chief Security Officer	Deputy Commandant
3. Security Officer	Assistant Commandant
4. Head Security Guard	Head Constable
5. Senior Security Guard	Naik
6. Security Guard	Constable

(2) Notwithstanding anything contained in sub-section (1), any member of the existing Force may, within thirty days from the commencement of this Act, exercise his option by notice in writing to the Director General.

(a) if such a member had been on deputation to the existing Force from any other service, to revert to such other service, and

(b) in any other case, to retire from service, and an option so exercised shall be final, and member exercising such option shall be permitted, within 30 days from the date on which he exercises such option to revert to the service from which he had been on deputation or, as the case may be, to retire from service.

Explanation : For the purposes of this section the expression "member" includes an officer, and the expression "Director General" shall have the same meaning as in the principal Act as amended by this Act.

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शासकीय गुप्त बात अधिनियम, 1923

(1923 का अधिनियम संख्यांक 19)¹

[2 अप्रैल, 1923]

शासकीय गुप्त बातों से संबंधित विधि ^{2***} के समेकन
और संशोधन के लिए
अधिनियम

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यह समीचीन है कि ^{2***} शासकीय गुप्त बातों से संबंधित विधि का समेकन और संशोधन किया जाए; अतः एतदद्वारा निम्नलिखित रूप में यह अधिनियमित किया जाता है:—

- ⁴[1. संक्षिप्त नाम, विस्तार और लागू होना—(1) यह अधिनियम शासकीय गुप्त बात अधिनियम, 1923 कहा जा सकेगा।
(2) इसका विस्तार सम्पूर्ण भारत पर है और यह सरकार के सेवकों और भारत के नागरिकों को भी जो भारत के बाहर हैं, लागू है।]
2. परिभाषाएँ—इस अधिनियम में जब तक कि कोई बात विपव या संदर्भ में विरुद्ध न हो,—

(1) ऐसे स्थान के प्रति, जो सरकार का है, किसी निर्देश के अन्तर्गत ऐसा स्थान भी है जो सरकार के किसी विभाग के अधिभोग में है, भले ही वह स्थान सरकार में वास्तविक रूप में निहित हो यो न हो;

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(2) संसूचित करने या प्राप्त करने के प्रति निर्देश करने वाले पदों के अन्तर्गत किसी भी प्रकार संसूचित करना या प्राप्त करना है चाहे वह पूर्ण हो या आंशिक और चाहे रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण, दस्तावेज या जानकारी को ही अथवा उसके सार, आशय या वर्णन को संसूचित किया गया हो या प्राप्त किया गया हो; किसी रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण या दस्तावेज को अभिप्राप्त करने या प्रतिभूत रखने के प्रति निर्देश करने वाले पदों के अन्तर्गत किसी रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण या दस्तावेज की पूरी या उसके किसी भाग की नकल करना या नकल करवाना भी है; और किसी रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण या दस्तावेज की संसूचना के प्रतिनिर्देश करने वाले पदों के अन्तर्गत उस रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण या दस्तावेज का अन्तरण या प्रेपण भी है;

(3) "दस्तावेज" के अन्तर्गत दस्तावेज का भाग भी है;

(4) "प्रतिमान" के अन्तर्गत डिजाईन, पैटर्न और नेमूना भी है;

(5) "युद्ध सामग्री" के अन्तर्गत कोई पूरा पोंट, पनडुब्बी, वायुयान, टैंक या सदृश इंजिन, आयुध और गोलाबारूद, तारपीड़ी या सुरंग, जो युद्ध में उपयोग के लिए आशयित या अनुकूलित हो या उसका कोई भाग तथा ऐसे उपयोग के लिए आशयित, चाहे वास्तविक या प्रस्थापित, कोई अन्य चीज, सामग्री या युक्ति है;

1. इस अधिनियम का विस्तार 1941 के अधिनियम सं० 4 द्वारा बेरर पर; 1962 के विनियम सं० 12 की धारा 3 तथा अनुसूची द्वारा गोच, दमण और दीव पर; 1963 के विनियम सं० 6 की धारा 2 तथा अनुसूची 1 द्वारा दादरा और नागर हवेली पर; 1963 के विनियम सं० 7 की धारा 3 तथा अनुसूची 1 द्वारा पाप्टिचेरी पर; 1965 के विनियम सं० 8 की धारा 3 और अनुसूची द्वारा लक्ष्यद्वय पर किया गया है।
2. विधि अनुकूलन आदेश, 1950 द्वारा "प्रान्तों में" शब्दों का लोप किया गया।
3. विधि अनुकूलन आदेश, 1950 द्वारा के पैरा 1 और 2 का लोप किया गया।
4. 1967 के अधिनियम सं० 24 की धारा 2 द्वारा धारा 1 के स्थान पर प्रतिस्थापित।
5. भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1937 द्वारा खण्ड (1क) अंतःस्थापित किया गया था जिसका विधि अनुकूलन आदेश, 1948 द्वारा लोप किया गया।

- (6) "सरकार के अधीन पद" के अन्तर्गत सरकार^{1***} के किसी विभाग में या उसके अधीन कोई पद या नियोजन है;
- (7) "फोटोग्राफ" के अन्तर्गत बिना धुली हुई फिल्म या प्लेट भी है;
- (8) "प्रतिष्ठित स्थान" से अभिप्रेत है—

(क) कोई रक्षा संकर्म, आयुधशाला, नौसेनिक, सैनिक या वायुसैनिक बल का संस्थापन या आस्थान, सुरंग, सुरंग-क्षेत्र, शिविर, पोत या वायुयान जो सरकार का है, या सरकार के या उसकी ओर से अधिभोग में है, कोई सैनिक तारयंत्र या टेलीफोन, जो ऐसे उसका है या उसके अधिभोग में है, कोई बेतार या संकेत स्टेशन या कार्यालय, जो ऐसे उसका है या उसके अधिभोग में है और कोई कारखाना, डाकघार्ड या अन्य स्थान, जो ऐसे उसका है या उसके अधिभोग में है, और जिसका उपयोग किसी युद्ध सामग्री के या तत्संबंधी किन्ही रेखाचित्रों, रेखांकों, प्रतिमानों या दस्तावेजों के निर्माण, मरम्मत, बनाने या भंडार में रखने के प्रयोजन के लिए या युद्ध के समय किन्ही उपयोगी धातुओं, तेल या खनिजों के प्राप्त करने के प्रयोजन के लिए किया जाता है;

(ख) कोई ऐसा स्थान, जो सरकार का नहीं है और जहां कोई युद्ध सामग्री या तत्संबद्ध कोई रेखाचित्र, प्रतिमान, रेखांक या दस्तावेज सरकार के साथ, या उसकी ओर से किसी व्यक्ति के साथ, संविदा के अधीन या अन्यथा सरकार की ओर से बनाई जा रही, मरम्मत की जा रही या प्राप्त की जा रही या भंडार में रखी जा रही है;

(ग) कोई ऐसा स्थान, जो सरकार का है या सरकार के प्रयोजन के लिए प्रदूषक किया जा रहा है और जिसकी बाबत केन्द्रीय सरकार ने, इस आधार पर कि उससे संबंधित जानकारी या उसे नुकसान शब्द को उपयोगी होगा, शासकीय राजपत्र में अधिसूचना द्वारा तत्समय यह घोषित कर दिया है कि वह इस अधिनियम के प्रयोजनों के लिए प्रतिष्ठित स्थान है और जहां उसकी बाबत अधिसूचना की प्रति अंग्रेजी में और उस स्थान की जन भाषा में लगा दी गई है;

(घ) कोई रेल, सड़क, मार्ग या जलसरणी या भूमि मार्ग या जल मार्ग द्वारा संचार के अन्य साधन (जिनके अन्तर्गत उनके भागरूप या उनसे संबंधित कोई संकर्म या संरचनाएं भी हैं) या गैस, जल या विद्युत् संकर्मों या सार्वजनिक प्रकार के प्रयोजनों के लिए अन्य संकर्मों के बासे प्रयुक्त कोई स्थान या कोई स्थान जहां युद्ध सामग्री या तत्संबद्ध कोई रेखाचित्र, प्रतिमान, रेखांक या दस्तावेज सरकार की ओर से बनाए जाने से अन्यथा बनाए जा रहे, मरम्मत किए जा रहे या भंडार में रखे जा रहे हैं, जिसकी बाबत केन्द्रीय सरकार ने इस आधार पर कि उससे संबंधित जानकारी या उसका विनाश या उसमें बाधा या उसमें हस्तक्षेप शब्द को उपयोगी होगा, शासकीय राजपत्र में अधिसूचना द्वारा तत्समय यह घोषित कर दिया है कि वह इस अधिनियम के प्रयोजनों के लिए प्रतिष्ठित स्थान है और जहां उसकी बाबत अधिसूचना की प्रति अंग्रेजी में और उस स्थान की जन भाषा में लगा दी गई है;

(9) "रेखाचित्र" के अन्तर्गत कोई फोटोग्राफ या किसी स्थान या चीज का प्रतिरूपण करने वाला अन्य छंग है; और

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(10) "पुलिस अधीक्षक" के अन्तर्गत समान या वरिष्ठ पंक्ति का कोई पुलिस अधिकारी और ऐसा कोई व्यक्ति भी है जिसे केन्द्रीय सरकार ने ^{3***} पुलिस अधीक्षक की शक्तियां इस अधिनियम के प्रयोजनों के लिए प्रदत्त की हों।

3. गुप्तचरी के लिए शास्त्रियां—(1) यदि कोई व्यक्ति, राज्य की सुरक्षा या हितों पर प्रतिकूल प्रभाव डालने वाले किसी प्रयोजन के लिए—

(क) किसी प्रतिष्ठित स्थान के समीप जाएगा, उसका निरीक्षण करेगा, उस पर से गुजरेगा या उसके निकट होगा या उसपर प्रवेश करेगा; या

(ख) कोई ऐसा रेखाचित्र, रेखांक, प्रतिमान या टिप्पण बनाएगा या करेगा जो शब्द के लिए प्रत्यक्षतः या परोक्षतः उपयोगी होने के लिए प्रकल्पित है, हो सकता है, या होने के लिए आशयित है; या

1. 1967 के अधिनियम सं० 24 की धारा 3 द्वारा कुछ शब्दों का लोप किया गया।

2. भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1950 द्वारा खब्द (9क) अंतःस्थापित किया गया था जिससे 1951 के अधिनियम सं० 3 की धारा 3 तथा अनुसूची द्वारा निरसित किया गया।

3. भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1937 द्वारा "ये किसी स्थानीय सरकार द्वारा" शब्दों का लोप किया गया।

(ग) कोई ऐसी गुप्त शासकीय संकेतकी या संकेत शब्द, या कोई ऐसा रेखाचित्र, रेखांक, प्रतिमान, चीज या टिप्पण या अन्य दस्तावेज, या जानकारी अभिप्राप्त, संगृहीत, अभिलिखित, प्रकाशित या किसी अन्य व्यक्ति को संसूचित करेगा जो शत्रु के लिए प्रत्यक्षतः या परोक्षतः उपयोगी होने के लिए प्रकल्पित है, हो सकती है, या होने के लिए आशयित है¹ [या जो ऐसे मामले से संबंधित है जिसके प्रकटन से भारत की प्रभुता और अखंडता, राज्य की सुरक्षा या विदेशी राज्यों के साथ मैत्रीपूर्ण संबंधों के प्रभावित होने की संभाव्यता है];

तो वह कारावास से दृष्टीनय होगा, जिसकी अवधि उस दशा में जिसमें वह अपराध किसी रक्षा संकर्म, आयुधशाला, नौसैनिक, सैनिक या वायुसैनिक बल के स्थापन या आस्थान, सुरंग, सुरंगल क्षेत्र, कारखाने, डॉक्यार्ड, शिविर, पोत या वायुयान के संबंध में अथवा अन्यथा रूप से सरकार के नौसैनिक, सैनिक या वायुसैनिक बल के कार्यों के संबंध में या किसी गुप्त शासकीय संकेतकी के संबंध में किया जाता है चौदह वर्ष तक की तथा अन्य मामलों में तीन वर्ष तक की हो सकेगी।

(2) इस धारा के अधीन दण्डीनय किसी अपराध के लिए^{2***} अभियोजन पर यह दर्शित करना आवश्यक नहीं होगा कि अभियुक्त व्यक्ति किसी ऐसे विशिष्ट कार्य का दोषी है जिसकी प्रवृत्ति राज्य की सुरक्षा या हितों पर प्रतिकूल प्रभाव डालने का प्रयोजन दर्शित करने की है, और इस बात के होते हुए भी कि उसके विरुद्ध कोई ऐसा कार्य साक्षित नहीं होता है उसे सिद्धदोष ठहराया जा सकेगा यदि मामले की परिस्थितियों या उसके आचरण या उसके ज्ञात चरित्र से, जैसा कि साक्षित हो, यह प्रतीत होता है कि उसका प्रयोजन राज्य की सुरक्षा या हितों पर प्रतिकूल प्रभाव डालने वाला प्रयोजन था; और यदि, किसी प्रतिपिद्ध स्थान में प्रयुक्त या उसमें संबद्ध अथवा ऐसे स्थान में कि किसी चीज से सम्बद्ध किसी रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण, दस्तावेज या जानकारी को या किसी गुप्त शासकीय संकेतकी अथवा संकेत शब्द को विधिपूर्ण प्राधिकार के अधीन कार्य कर रहे व्यक्ति से भिन्न किसी व्यक्ति द्वारा बनाया, अभिप्राप्त, संगृहीत, अभिलिखित, प्रकाशित या संसूचित किया जाता है, और मामले की परिस्थितियों या उसके आचरण या उसके ज्ञात चरित्र से जैसा कि साक्षित हो यह प्रतीत होता है कि उसका प्रयोजन राज्य की सुरक्षा या हितों पर प्रतिकूल प्रभाव डालने वाला प्रयोजन था तो ऐसे रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण, दस्तावेज,³ [जानकारी, संकेतकी या संकेत शब्द की बाबत या उपधारित किया जाएगा] कि उसे राज्य की सुरक्षा या हितों पर प्रतिकूल प्रभाव डालने वाले प्रयोजन के लिए बनाया, अभिप्राप्त, संगृहीत, अभिलिखित, प्रकाशित या संसूचित किया गया था।

4. विदेशी अभिकर्ताओं से सम्पर्क का कर्तिपय अपराधों के किए जाने का साक्ष्य होना—(1) धारा 3 के अधीन किसी अपराध के लिए किसी व्यक्ति के विरुद्ध किन्हीं कार्यवाहियों में यह तथ्य कि वह, चाहे⁴ [भारत] के भीतर या बाहर, किसी विदेशी अभिकर्ता से सम्पर्क करता रहा है वा उसने सम्पर्क करने का प्रयत्न किया है इस बात को साक्षित करने के प्रयोजन के लिए सुसंगत होगा कि उसने, राज्य की सुरक्षा या हितों पर प्रतिकूल प्रभाव डालने के प्रयोजन के लिए ऐसी जानकारी अभिप्राप्त की है या अभिप्राप्त करने का प्रयत्न किया है जो शत्रु के लिए प्रत्यक्षतः या परोक्षतः उपयोगी होने के लिए प्रकल्पित है, हो सकती है या होने के लिए आशयित है।

(2) इस धारा के प्रयोजन के लिए, किन्तु पूर्वगामी उपबन्धों की व्यापकता पर प्रतिकूल प्रभाव डाले बिना—

(क) किसी व्यक्ति के बारे में यह उपधारणा की जा सकेगी कि वह किसी विदेशी अभिकर्ता से सम्पर्क करता रहा है, यदि—

(i) वह या तो⁴ [भारत] के भीतर या बाहर, किसी विदेशी अभिकर्ता के ठिकाने पर गया है या विदेशी अभिकर्ता के साथ साहचर्य या सहयुक्त करता रहा है, या

(ii) या तो⁴ [भारत] के भीतर या बाहर, किसी विदेशी अभिकर्ता का नाम या पता या उसके बारे में कोई अन्य जानकारी उसके कब्जे में पाई गई है या उसके द्वारा किसी अन्य व्यक्ति से अभिप्राप्त की गई है;

(ख) “विदेशी अभिकर्ता” पद के अन्तर्गत कोई ऐसा व्यक्ति भी है जो राज्य की सुरक्षा या हितों पर प्रतिकूल प्रभाव डालने वाला कोई कार्य⁴ [भारत] के भीतर या बाहर करने के प्रयोजन के लिए प्रत्यक्ष या परोक्ष रूप से किसी विदेशी शक्ति द्वारा नियोजित है या रहा है या जिसकी बाबत यह प्रतीत होता है कि उसके ऐसा होने या रहने का संदेह करने के लिए युक्तियुक्त आधार है अथवा जिसने किसी विदेशी शक्ति के हित में ऐसा कोई कार्य⁴ [भारत] के भीतर या बाहर किया है या करने का प्रयत्न किया है या उसके ऐसा करने का युक्तियुक्त संदेह है;

(ग) “किसी ऐसे पते की बाबत चाहे वह⁴ [भारत] के भीतर हो या बाहर, जिसके बारे में यह प्रतीत होता है कि उसके किसी विदेशी अभिकर्ता के लिए आशयित संसूचनाओं की प्राप्ति के लिए प्रयुक्त पता होने का संदेह करने के लिए युक्तियुक्त आधार

1. 1967 के अधिनियम सं 24 की धारा 4 द्वारा अंतःस्थापित।

2. 1967 के अधिनियम सं 24 की धारा 4 द्वारा कुछ शब्दों का लोप किया गया।

3. 1967 के अधिनियम सं 24 की धारा 4 द्वारा “या जानकारी जिसकी बाबत यह उपधारित किया जाएगा” शब्दों के स्थान पर प्रतिस्थापित।

4. 1951 के अधिनियम सं 3 की धारा 3 तथा अन्सूची द्वारा “राज्यों” के स्थान पर प्रतिस्थापित।

है, अथवा किसी ऐसे पते की बाबत जिसमें कोई विदेशी अभिकर्ता निवास करता है या जिसमें वे संसूचनाएं देने या प्राप्त करने के प्रयोजन के लिए आता जात है या जिसमें वह कोई कारबार करता है, यह उपधारित किया जाएगा कि वह विदेशी अभिकर्ता का पता है और ऐसे पते वाली संसूचनाएं विदेशी अभिकर्ता की संसूचनाएं हैं।

5. जानकारी की सदोष संसूचना आदि—(1) यदि कोई व्यक्ति, जिसके कब्जे या नियंत्रण में कोई ऐसी गुप्त शासकीय संकेतकी या संकेत शब्द या कोई ऐसा रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण, दस्तावेज या जानकारी है जो किसी प्रतिपिद्ध स्थान से सम्बद्ध या उसमें प्रयुक्त की जाती है या ऐसे स्थान में की किसी चीज से सम्बद्ध है¹ [अथवा जिससे शत्रु को प्रत्यक्षतः या परोक्षतः सहायता होनी सम्भाव्य है, या जो ऐसे मामले से संबंधित है जिसके प्रकटन से भारत की प्रभुता और अखंडता, राज्य की सुरक्षा या विदेशी राज्यों के साथ मैत्रपूर्ण संबंधों के प्रभावित होने की संभाव्यता है या जो इस अधिनियम के उल्लंघन में बनाई या अभिप्राप्त की गई है] अथवा जो उसे सरकार के अधीन पद धारण करने वाले किसी व्यक्ति द्वारा विश्वासपूर्वक सौंपी गई है अथवा जिसकी उसे अभिप्राप्ति या जिस तक उसकी पहुंच उसकी उस स्थिति के कारण हुई जो ऐसे व्यक्ति के रूप में है जो सरकार के अधीन पद धारण करता है या कर चुका है या ऐसे व्यक्ति के रूप में है जो सरकार की ओर से की गई किसी संविदा को धारण करता है या धारण कर चुका है या ऐसे व्यक्ति के रूप में है जो उस किसी व्यक्ति के अधीन नियोजित है या रह चुका है जो ऐसा पद या संविदा धारण करता है या कर चुका है—

(क) उस संकेतकी या संकेत शब्द, रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण, दस्तावेज या जानकारी की संसूचना उस व्यक्ति से, जिसे उससे संसूचित करने को वह प्राधिकृत है, या किसी न्यायालय से, या उस व्यक्ति से, जिसको राज्य के हितों में, उसे संसूचित करना उसका कर्तव्य है, भिन्न किसी व्यक्ति को जानबूझकर संसूचित करेगा; या

(ख) अपने कब्जे में की जानकारी का उपयोग किसी विदेशी शक्ति के फायदे के लिए या ऐसी किसी अन्य रीति में करेगा जो राज्य की सुरक्षा पर प्रतिकूल प्रभाव डालने वाली हो; या

(ग) उस रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण या दस्तावेज को अपने कब्जे या नियंत्रण में प्रतिधृत रखेगा जब कि उसकी प्रतिधारित रखने का अधिकार नहीं है या जब कि उसे प्रतिधारित रखना उसके कर्तव्य के प्रतिकूल है या विधिपूर्ण प्राधिकारी द्वारा उसकी वापसी या व्ययन के संबंध में दिए गए सब निर्देशों का अनुवर्तन करने में जानबूझकर असफल होगा; या

(घ) उस रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण, दस्तावेज, गुप्त शासकीय संकेत की या संकेत शब्द या जानकारी की युक्तियुक्त संभाल करने में असफल होगा या ऐसे आचरण करेगा जिससे उसकी सुरक्षा के लिए संकट उत्पन्न हो जाए, तो वह इस धारा के अधीन अपराध का दोषी होगा।

(2) यदि कोई व्यक्ति किसी गुप्त शासकीय संकेत की या संकेत शब्द या किसी रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण, दस्तावेज या जानकारी को स्वेच्छा प्राप्त करेगा जब कि उस समय जब वह उसे प्राप्त करता है वह जानता है या उसके पास यह विश्वास करने का युक्तियुक्त आधार है कि वह संकेतकी, संकेत शब्द, रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण, दस्तावेज या जानकारी इस अधिनियम के उल्लंघन में संसूचित की गई है तो वह इस अधिनियम के अधीन अपराध का दोषी होगा।

(3) यदि कोई व्यक्ति जिसके कब्जे या नियंत्रण में कोई ऐसा रेखाचित्र, रेखांक, प्रतिमान, चीज, टिप्पण, दस्तावेज या जानकारी है जो युद्ध सामग्री से सम्बद्ध है उसे प्रत्यक्षतः या परोक्षतः किसी विदेशी शक्ति को, या किसी अन्य रीति में जो राज्य की सुरक्षा या हितों पर प्रतिकूल प्रभाव डालने वाली हो, संसूचित करेगा तो वह इस धारा के अधीन अपराध का दोषी होगा।

²[4] (4) इस धारा के अधीन अपराध का दोषी व्यक्ति कारबास से, जिसकी अवधि तीन वर्ष तक की हो सकेगी, या जुमनि से, अथवा दोनों से, दंडनीय होगा।]

6. वर्दियों का अप्राधिकृत उपयोग, रिपोर्टों का मिथ्याकरण, कूटरचना, प्रतिरूपण और मिथ्या दस्तावेज—(1) यदि कोई व्यक्ति प्रतिपिद्ध स्थान में प्रवेश पाने के या प्रवेश पाने में किसी व्यक्ति को सहायता देने के प्रयोजन के लिए या राज्य की सुरक्षा पर प्रतिकूल प्रभाव डालने वाले किसी अन्य प्रयोजन के लिए—

(क) किसी नौसैनिक, सैनिक, वायुसैनिक, पुलिस या अन्य शासकीय वर्दी का या उससे लगभग उतनी मिलती जुलती वर्दी का, कि उससे धोखा हो सकता है, विधिपूर्ण प्राधिकार के बिना उपयोग करेगा या पहनेगा, या अपने को ऐसा व्यक्ति मिथ्या रूपेण व्यपदिष्ट करेगा जो किसी भी ऐसी वर्दी का उपयोग करने या पहनने का हकदार है या हकदार रहा है; या

(ख) मौखिक रूप से या किसी घोषणा या आवेदन में लिखित रूप में, या अपने द्वारा या अपनी ओर से हस्ताक्षरित किसी दस्तावेज में कोई मिथ्या कथन या कोई लोप जानबूझकर करेगा या करने में मौनानुकूल रहेगा; या

1. 1967 के अधिनियम सं 24 की धारा 5 द्वारा "या इस अधिनियम के उल्लंघन में बनाई या अभिप्राप्त की गई है" शब्दों के स्थान पर प्रतिस्थापित।

2. 1967 के अधिनियम सं 24 की धारा 5 द्वारा (10-7-1968 से) पूर्ववर्ती उपधारा (4) के स्थान पर प्रतिस्थापित।

(ग) किसी पासपोर्ट को या किसी नौसैनिक, सैनिक या बायुसैनिक या पुलिस या शासकीय पास, अनुज्ञापत्र, प्रमाणपत्र, अनुशंसित या उसी प्रकार की अन्य दस्तावेज को (जो एतत्परचात् इस धारा में शासकीय दस्तावेज के रूप में निर्दिष्ट है) कूटरचित करेगा, बदलेगा या बिगड़ेगा या ऐसी किसी कूटरचित, बदली हुई या अनियमित शासकीय दस्तावेज का जानबूझकर उपयोग करेगा या उसे अपने कब्जे में रखेगा; या

(घ) सरकार के अधीन पद धारण करने वाला, या धारण करने वाले व्यक्ति के नियोजन में, व्यक्ति होने का या ऐसा व्यक्ति होने का या न होने का, जिसको शासकीय दस्तावेज या गुरुत शासकीय संकेतकी या संकेत शब्द सम्बद्धपेण दिया गया या संसूचित किया गया है, प्रतिरूपण करेगा या मिथ्या व्यपदेशन करेगा या किसी शासकीय दस्तावेज, गुरुत शासकीय संकेतकी या संकेत शब्द को चाहे अपने लिए या किसी अन्य व्यक्ति के लिए अभिप्राप्त करने के आशय से कोई मिथ्या कथन जानबूझकर करेगा; या

(ङ) किसी ऐसी डाइ, मुद्रा या स्टाम्प को जो सरकार के किसी विभाग का या उसके स्वामित्वाधीन हो या जिसका प्रयोग, निर्माण या प्रदाय सरकार के विभाग द्वारा या किसी ऐसी राजनीय, नौसैनिक, सैनिक या बायुसैनिक प्राधिकारी द्वारा किया जाता हो जो सरकार द्वारा नियुक्त या उसके प्राधिकार के अधीन कार्यशील हो, सरकार के विभाग या संबंधित प्राधिकारी के प्राधिकार के बिना, अथवा किसी ऐसी डाइ, मुद्रा या स्टाम्प से लगभग इतने मिलते जुलते हैं कि उससे धोखा हो सके किसी डाइ, मुद्रा या स्टाम्प को प्रयुक्त करेगा या अपने कब्जे में या नियंत्रणाधीन रखेगा या किसी ऐसी डाइ, मुद्रा या स्टाम्प को कूटकृत डाइ, या मुद्रा या स्टाम्प को जानबूझकर प्रयुक्त करेगा या अपने कब्जे में या नियंत्रणाधीन रखेगा, तो वह इस धारा के अधीन अपराध का दोषी होगा।

(2) यदि कोई व्यक्ति, राज्य की सुरक्षा पर प्रतिकूल प्रभाव डालने वाले किसी प्रयोजन के लिए—

(क) किसी शासकीय दस्तावेज को, भले ही वह पूरी अथवा उपयोग के लिए जारी की गई हो या नहीं, प्रतिभासित रखेगा जब कि उसे प्रतिधृत रखने का उसे कोई अधिकार नहीं है, या जब कि उसको प्रतिधृत रखना उसके कर्तव्य के प्रतिकूल है, या सरकार के किसी विभाग या ऐसे विभाग के द्वारा प्राधिकृत किसी व्यक्ति द्वारा उसके लौटाने या व्यवन के संबंध में दिए गए निदेशों का अनुवर्तन करने में जानबूझकर असफल रहेगा, या

(ख) केवल अपने प्रयोग के लिए जारी की गई किसी शासकीय दस्तावेज पर कब्जा अन्य व्यक्ति को करने देगा या ऐसे जारी किए गए किसी गुरुत शासकीय संकेतकी या संकेत शब्द को संसूचित करेगा, या विधिपूर्ण प्राधिकार अथवा प्रतिहेतु के बिना किसी ऐसी शासकीय दस्तावेज या गुरुत शासकीय संकेतकी या संकेत शब्द को जो उससे भिन्न किसी व्यक्ति के प्रयोग के लिए जारी किया गया हो अपने कब्जे में रखेगा या किसी शासकीय दस्तावेज को पाने पर या अन्यथा अपने कब्जे में लेकर उस व्यक्ति या प्राधिकारी को, जिसके द्वारा या जिसके प्रयोग के लिए वह जारी की गई थी, या किसी पुलिस अधिकारी को उसे प्रत्यावर्तित करने में जानबूझकर असफल रहेगा, या

(ग) पूर्वोक्त जैसे किसी डाइ, मुद्रा या स्टाम्प को विधिपूर्ण प्राधिकार या प्रतिहेतु के बिना विनिर्मित करेगा या विक्रय करेगा अथवा विक्रय के लिए अपने कब्जे में रखेगा,

तो वह इस धारा के अधीन अपराध का दोषी होगा।

(3) इस धारा के अधीन अपराध का दोषी व्यक्ति कारावास से, जिसकी अवधि¹ [तीन वर्ष] तक की हो सकेगी, या जुमनि से, अथवा दोनों से, दंडनीय होगा।

(4) धारा 3 की उपधारा (2) के उपबंध, सरकार के नौसैनिक, सैनिक या बायुसैनिक मामलों से संबद्ध या किसी गुरुत शासकीय संकेतकी से संबद्ध इस धारा के अधीन अपराध के लिए किसी अभियोजन में राज्य की सुरक्षा पर प्रतिकूल प्रभाव डालने वाले प्रयोजन को साबित करने के प्रयोजनार्थ वैसे ही लागू होंगे जैसे वे उस धारा के अधीन दण्डनीय^{2***} अपराधों के अभियोजनों में राज्य की सुरक्षा या हितों पर प्रतिकूल प्रभाव डालने वाले प्रयोजन को साबित करने के लिए लागू होते हैं।

7. पुलिस अधिकारियों या संघ के सशस्त्र बलों के सदस्यों के काम में हस्तक्षेप करना—(1) किसी प्रतिपिछ्व स्थान के समीप कोई व्यक्ति किसी पुलिस अधिकारी, या³ [संघ के सशस्त्र बलों] के किसी सदस्य को, जो उसी प्रतिपिछ्व स्थान के सम्बन्ध में गार्ड, संतरी, पैट्रोल या वैसे ही अन्य कर्तव्य पर लगा हो, बाधित नहीं करेगा, जानबूझकर मार्ग भ्रष्ट नहीं करेगा या अन्यथा उसके काम में हस्तक्षेप नहीं करेगा या अङ्गचन नहीं डालेगा।

(2) यदि कोई व्यक्ति इस धारा के उपबन्धों के उल्लंघन में कार्य करेगा तो वह कारावास से, जिसकी अवधि⁴ [तीन वर्ष] तक की हो सकेगी, या जुमनि से, अथवा दोनों से, दंडनीय होगा।

8. अपराधों के किए जाने के सम्बन्ध में जानकारी देने का कर्तव्य—(1) प्रत्येक व्यक्ति का यह कर्तव्य होगा कि वह पुलिस अधीक्षक को या अन्य पुलिस अधिकारी को, जो निरीक्षक की पंक्ति से नीचे नहीं है और जो इस निर्मित पुलिस के महानिरीक्षक या

1. 1967 के अधिनियम सं^o 24 की धारा 6 द्वारा "दो वर्ष" के स्थान पर प्रतिस्थापित।

2. 1967 के अधिनियम सं^o 24 की धारा 6 द्वारा कुछ शब्दों का लोप किया गया।

3. विधि अनुकूलन आदेश, 1950 द्वारा "हिंज मैजिस्ट्री के बतों" शब्दों के स्थान पर प्रतिस्थापित।

4. 1967 के अधिनियम सं^o 24 की धारा 7 द्वारा "दो वर्ष" शब्दों के स्थान पर प्रतिस्थापित।

आयुक्त द्वारा सशक्त किया गया है, या ¹[संघ के सशस्त्र बलों] के किसी सदस्य को जो गार्ड, संतरी, पैट्रोल या वैसे ही अन्य कर्तव्य पर लगा हो, धारा 3 के अधीन या धारा 9 के साथ पठित धारा 3 के अधीन किसी अपराध से यह संदिध अपराध से सम्बद्ध ऐसी जानकारी, जो उसकी अपनी शक्ति में है, मांग किए जाने पर दे और यदि उससे ऐसी अपेक्षा की जाए तो और उसके युक्तियुक्त व्ययों के निविदान पर ऐसे युक्तियुक्त समय और स्थान पर हाजिर हो जैसा ऐसी जानकारी देने के प्रयोजन के लिए विनिर्दिष्ट किया जाए।

(2) यदि कोई व्यक्ति ऐसी जानकारी देने में या पूर्वोक्त रूप से हाजिर होने से असफल होगा तो वह कारबास से, जो ²[तीन वर्ष] तक का हो सकेगा, या जुमानि से, अथवा दोनों से दंडनीय होगा।

9. प्रयत्न, उद्दीपन आदि— जो कोई व्यक्ति इस अधिनियम के अधीन कोई अपराध करने का प्रयत्न करेगा या उसका किया जाना दुष्प्रेरित करेगा वह ऐसे दंड से दण्डनीय होगा और अपने विरुद्ध ऐसी रीति में कार्यवाही किए जाने का भागी होगा मानों उसने ऐसा अपराध किया हो।

10. गुप्तचरों को संश्रय देने के लिए शास्ति— (1) यदि कोई व्यक्ति जानबूझकर किसी ऐसे व्यक्ति को संश्रय देगा जिसकी बाबत वह जानता है, या उसके पास इस अनुमान के लिए युक्तियुक्त आधार है कि वह ऐसा व्यक्ति है जो धारा 3 के अधीन या धारा 9 के साथ पठित धारा 3 के अधीन अपराध करने वाला है या कंत्र चुका है अथवा अपने अधिभोग में या अपने नियंत्रण के अधीन किन्हीं परिसरों में ऐसे किन्हीं व्यक्तियों को जानबूझकर मिलने या समवेत होने देगा, तो वह इस धारा के अधीन अपराध का दोषी होगा।

(2) उपरोक्त जैसे किसी व्यक्ति को संश्रय देने वाले या उपरोक्त जैसी किन्हीं व्यक्तियों को अपने अधिभोग में या अपने नियंत्रण के अधीन किन्हीं परिसरों में मिलने या समवेत होने देने वाले प्रत्येक व्यक्ति का यह कर्तव्य होगा कि वह पुलिस अधीक्षक को या अन्य पुलिस अधिकारी को जो निरीक्षक की पंक्ति से नीचे नहीं है और जो इस निमित्त पुलिस के महानिरीक्षक या आयुक्त द्वारा सशक्त किया गया है, किसी ऐसे व्यक्ति या व्यक्तियों संबंधी ऐसी जानकारी जो उसकी अपनी शक्ति में है, मांग किए जाने पर दे और यदि कोई व्यक्ति ऐसी किसी जानकारी को देने में असफल रहेगा तो वह इस धारा के अधीन अपराध का दोषी होगा।

(3) इस धारा के अधीन अपराध का दोषी व्यक्ति कारबास से, जिसकी अवधि ³[तीन वर्ष] तक की हो सकेगी, या जुमानि से, अथवा दोनों से, दंडनीय होगा।

11. तलाशी वारंट— (1) यदि किसी प्रेसिडेंसी मजिस्ट्रेट, प्रथम वर्ग के मजिस्ट्रेट या उपर्युक्त मजिस्ट्रेट का समाधान शपथ पर जानकारी द्वारा करा दिया जाता है कि यह सन्देह किए जाने के लिए युक्तियुक्त आधार है कि इस अधिनियम के अधीन अपराध किया जा चुका है या किया ही जाने वाला है, तो वह एक तलाशी वारंट दे सकेगा जो उसमें नामित किसी ऐसे पुलिस अधिकारी को, जो पुलिस थाने के भारसाधक अधिकारी की पंक्ति से नीचे नहीं है, इसके लिए प्राधिकृत करेगा कि वह किसी भी समय किन्हीं परिसरों या स्थानों में, जो वारंट में लिखित हैं, यदि आवश्यक हो तो बलपूर्वक प्रवेश करे और उन परिसरों या स्थान की ओर वहां पाए गए प्रत्येक व्यक्ति की तलाशी ले और कोई रेखाचित्र, रेखांक, प्रतिमान, चीज़, टिप्पण या दस्तावेज या वैसी ही कोई वस्तु, या ऐसी कोई चीज़, जो इस अधिनियम के अधीन ऐसे अपराध का साक्ष्य है जो किया ही जुका है या किया ही जाने वाला है और जो उसे उन परिसरों या स्थान या किसी ऐसे व्यक्ति के पास मिले, और जिसके बारे में या जिसके संबंध में उसके पास यह संदेह करने का युक्तियुक्त आधार है कि इस अधिनियम के अधीन अपराध किया जा चुका है या किया ही जाने वाला है, अभिगृहीत करे।

(2) जहां किसी पुलिस अधिकारी को, जो अधीक्षक की पंक्ति से नीचे नहीं है, यह प्रतीत होता है कि मामला महान आपात का है, और राज्य के हितों में अविलंब कार्यवाही आवश्यक है, वहां वह अपने हस्ताक्षर सहित लिखित आदेश से किसी पुलिस अधिकारी को वैसा ही प्राधिकार दे सकेगा जैसा मजिस्ट्रेट के वारंट के द्वारा इस अपराध के अधीन दिया जा सकता है।

(3) जहां पुलिस अधिकारी द्वारा उपर्युक्त (2) के अधीन कार्यवाही की गई है वहां वह, यथाशीघ्र ऐसी कार्यवाही की रिपोर्ट, प्रेसिडेंसी नगर में मुख्य प्रेसिडेंसी मजिस्ट्रेट को और ऐसे नगर के बाहर जिला या उपर्युक्त मजिस्ट्रेट को देगा।

12. 1898 के अधिनियम 5 की धारा 337 के उपबन्धों की धारा 3, 5 और 7 के अधीन अपराधों को लागू होना— दण्ड प्रक्रिया संहिता, 1898⁵ की धारा 337 के उपबन्ध, धारा 3 के अधीन या धारा 5 के अधीन या धारा 7 के अधीन अथवा 9

1. विधि अनुकूलन आदेश, 1950 द्वारा "हिज मैजिस्ट्री के बलों" शब्दों के स्थान पर प्रतिस्थापित।
2. 1967 के अधिनियम सं० 24 की धारा 8 द्वारा "दो वर्ष" शब्दों के स्थान पर प्रतिस्थापित।
3. 1967 के अधिनियम सं० 24 की धारा 9 द्वारा "एक वर्ष" शब्दों के स्थान पर प्रतिस्थापित।
4. 1967 के अधिनियम सं० 24 की धारा 10 द्वारा धारा 12 के स्थान पर प्रतिस्थापित।
5. अब दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 306 देखिए।

के साथ पठित उक्त धारा 3, 5 और 7 में से किसी के अधीन दण्डनीय अपराध के सम्बन्ध में वैसे ही लागू होंगे जैसे वे ऐसी अवधि के लिए जो सात वर्ष तक की हो सकेगी कारबास से दण्डनीय किसी अपराध के सम्बन्ध में लागू होते हैं।]

13. अपराधों के विचारण पर निर्वन्धन— (1) ¹[समुचित सरकार] द्वारा इस निमित्त विशेषतया सशक्त प्रथम वर्ग के मजिस्ट्रेट से भिन्न कोई न्यायालय जो जिला या प्रैसिडेंसी मजिस्ट्रेट के न्यायालय से अवर है, इस अधिनियम के अधीन किसी अपराध का विचारण नहीं करेगा।

(2) यदि मजिस्ट्रेट के समक्ष इस अधिनियम के अधीन अपराध के लिए विचारणाधीन कोई व्यक्ति आरोप विरचित किए जाने से पहले किसी समय सेशन न्यायालय द्वारा विचारण का दावा करता है तो यदि मजिस्ट्रेट अभियुक्त को उच्चोचित नहीं करता तो वह मामले को उस न्यायालय द्वारा विचारणार्थ सुपुर्द कर देगा, भले ही वह ऐसा मामला नहीं है जो उक्त न्यायालय द्वारा अनन्य रूप से विचारणीय हो।

(3) कोई भी न्यायालय इस अधिनियम के अधीन किसी अपराध का संज्ञान, ²[समुचित सरकार] ^{3****} या इस निमित्त ¹[समुचित सरकार] द्वारा सशक्त किसी अधिकारी के आदेश से या उससे प्राधिकार के अधीन किए गए परिवाद पर करने के सिवाय नहीं करेगा।

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(4) इस अधिनियम के अधीन अपराध के लिए किसी व्यक्ति के विचारण के प्रयोजनों के लिए वह अपराध या तो उस स्थान पर जहां वह वास्तव में किया गया था या ⁵[भारत] में किसी स्थान पर जहां अपराधी पाया जाए किया गया समझा जाएगा।

⁶[(5) इस धारा में समुचित सरकार से अभिप्रेत है—

(क) धारा 5 के अधीन किन्हीं अपराधों के सम्बन्ध में जो किसी प्रतिपिद्ध स्थान या किसी विदेशी शक्ति से संबंधित नहीं हैं, राज्य सरकार; और

(ख) किसी अन्य अपराध के सम्बन्ध में केन्द्रीय सरकार।]

14. कार्यवाहियों से जनता का अपवर्जन— किन्हीं ऐसी शक्तियों के अतिरिक्त और उन पर प्रतिकूल प्रभाव ढाले बिना जो किन्हीं कार्यवाहियों से जनता का अपवर्जन करने का आदेश देने के बारे में न्यायालय को है, यदि इस अधिनियम के अधीन अपराध के लिए किसी व्यक्ति के खिलाफ न्यायालय के समक्ष कार्यवाहियों के या अपील में की कार्यवाहियों के दौरान या इस अधिनियम के अधीन किसी व्यक्ति के विचारण के दौरान इस आधार पर कि कार्यवाहियों के दौरान दिए जाने वाले किसी साक्ष्य के या किए जाने वाले किसी कथन के प्रकाशन से राज्य की सुरक्षा पर प्रतिकूल प्रभाव पड़ेगा अभियोजन पक्ष द्वारा यह आवेदन किया जाए कि समस्त जनता या उसका कोई भाग सुनवाई के किसी भाग के दौरान अपवर्जित कर दिया जाए तो न्यायालय उक्त आशय का आदेश दे सकेगा, किन्तु किसी भी दशा में दण्डादेश जनता के समक्ष दिया जाएगा।

⁷15. कम्पनियों द्वारा अपराध— (1) यदि इस अधिनियम के अधीन अपराध करने वाला व्यक्ति कम्पनी हो तो प्रत्येक व्यक्ति जो उस अपराध के किए जाने के समय उसकी कम्पनी के कारबार के संचालन के लिए उस कम्पनी का भारसाधक और उसके प्रति उत्तरदायी था और साथ ही वह कम्पनी भी ऐसे उल्लंघन के दोषी समझे जाएंगे तथा तदनुसार अपने विरुद्ध कार्यवाही किए जाने और दण्डित किए जाने के भागी होंगे:

परन्तु इस उपधारा की कोई बात किसी ऐसे व्यक्ति को इस अधिनियम में उपबन्धित ऐसे दण्ड का भागी नहीं बनाएगी यदि वह यह साक्षित कर दे कि अपराध उसकी जानकारी के बिना किया गया था या उसने ऐसे अपराध के किए जाने का निवारण करने के लिए सब सम्यक् तत्परता बरती थी।

(2) उपधारा (1) में किसी बात के होते हुए भी, जहाँ इस अधिनियम के अधीन कोई अपराध किसी कम्पनी द्वारा किया गया हो तथा यह साक्षित हो कि वह अपराध कम्पनी के किसी निदेशक, प्रबन्धक, सचिव या अन्य अधिकारी की सम्मति या मौनानुकूलता से किया गया है या उसकी किसी उपेक्षा के कारण हुआ माना जा सकता है वहाँ ऐसा निदेशक, प्रबन्धक, सचिव या अन्य अधिकारी भी उस अपराध का दोषी समझा जाएगा तथा तदनुसार अपने विरुद्ध कार्यवाही किए जाने और दण्डित किए जाने का भागी होगा।

1. भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1937 द्वारा "स्थानीय सरकार" के स्थान पर प्रतिस्थापित।

2. भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1937 द्वारा "सारिषद् गवर्नर जनरल" के स्थान पर प्रतिस्थापित।

3. भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1937 द्वारा "स्थानीय सरकार" शब्दों का लोप किया गया।

4. 1967 के अधिनियम सं^o 24 की धारा 11 द्वारा परन्तु का लोप किया गया।

5. 1951 के अधिनियम सं^o 3 की धारा 3 तथा अनुसूची द्वारा "राज्यों" के स्थान पर प्रतिस्थापित।

6. भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1937 द्वारा अंतःस्थापित।

7. 1967 के अधिनियम सं^o 24 की धारा 12 द्वारा धारा 15 के स्थान पर प्रतिस्थापित।

स्पष्टीकरण—इस धारा के प्रयोजन के लिए—

(क) “कम्यनी से कोई निगमित निकाय अभिप्रेत है, और इसके अन्तर्गत फर्म या व्यष्टियों का अन्य संगम भी है; तथा
(ख) फर्म के सम्बन्ध में “निदेशक” से उस फर्म का भागीदार अभिप्रेत है।】

16. [निरसन I] निरसन अधिनियम, 1927 (1927 का 12) की धारा 2 तथा अनुसूची द्वारा निरसित।

उद्देश्यों और कारणों का कथन

भारत में शासकीय गुप्त बातों की संरक्षा के बारे में स्थिति संक्षेप में निम्नलिखित रूप में है। इस समय प्रवृत्त विधि के उपबंध इस प्रकार हैं,

(क) भारत के विभान-मंडल का एक अधिनियम—भारतीय शासकीय गुप्त बात अधिनियम, 1889, जैसा कि वह भारतीय शासकीय गुप्त बात (संशोधन) अधिनियम, 1904 द्वारा संशोधित किया गया है, और

(ख) संसद् का कानून—शासकीय गुप्त बात अधिनियम, 1911 (1, 2 जारी V, सी 28)

ब्रिटिश कानून के उपबंध, युद्ध के दौरान प्राप्त अनुभव के परिणाम स्वरूप, शासकीय गुप्त बात अधिनियम, 1920 के अधिनियमन द्वारा पर्याप्त रूप से उपान्तरित किए गए हैं किंतु पश्चात् कथित कानून ब्रिटिश भारत को लागू नहीं होता है।

2. पिछले कुछ समय से यह माना जा रहा है कि भारत में एक ही समय में प्रवृत्त दो पृथक् विधियों का होना असमाधानप्रद है। इसके अतिरिक्त, यद्यपि 1911 का ब्रिटिश अधिनियम भारत में प्रवृत्त है तथापि उसको लागू करने में कठिनाइयाँ पैदा होती हैं क्योंकि उसमें आंग्ल कामन ला शब्दावली का प्रयोग किया गया है, इत्यादि। इन कारणों से यह वांछनीय है कि भारतीय परिस्थितियों के लिए लागू किए जाने के लिए एक समेकित अधिनियम होना चाहिए और इसकी वांछनीयता को 1920 के ब्रिटिश अधिनियम को पारित करके महत्व दिया गया है। यह अधिनियम 1911 के अधिनियम का पर्याप्त संशोधित करता है किंतु यह भारत में लागू नहीं है।

3. 1911 के ब्रिटिश अधिनियम के उपबंध भारतीय अधिनियमियों की अपेक्षा अधिक प्रभावी हैं, विशेष रूप से सैनिक गुप्त बातों के संरक्षण के मामले में और उन्हें 1920 के संशोधनकारी कानून का, जो कि युद्ध के दौरान प्राप्त अनुभव पर आधारित है, अधिनियमन एकरूपता लाई जाए और इस विधेयक का उद्देश्य 1911 तथा 1920 के ब्रिटिश अधिनियम के उपबंधों को समेकित करना तथा भारत में उपयुक्त रूप में उसका अधिनियमन करना है।

4. यह विधेयक शुद्धता समेकन उपाय के रूप में है। खंडों के बारे में विस्तार से उल्लेख करना आवश्यक नहीं है किंतु यह उल्लेखनीय है कि 1920 के अधिनियम की धारा 4 और धारा 5 के आधार पर उपबंधों का लोप किया जाना प्रस्तावित है क्योंकि यह समझा पर्याप्त रूप से आते हैं।

5. यदि यह विधेयक पारित किया जाता है तो भारतीय अधिनियमों को बनाए रखना आवश्यक नहीं होगा और इसलिए खंड 15 में उनके निरसन के लिए उपबंध किया गया है।

दिल्ली;

27 फरवरी, 1922

डब्ल्यू० एच० विनसेंट

THE ARMED FORCES (JAMMU AND KASHMIR)
SPECIAL POWERS ACT, 1990

ACT NO. 21 OF 1990

[10th September, 1990.]

An Act to enable certain special powers to be conferred upon members of the armed forces in the disturbed areas in the State of Jammu and Kashmir.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990.

(2) It extends to the whole of the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 5th day of July, 1990.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “armed forces” means the military forces and the air forces operating as land forces and includes any other armed forces of the Union so operating;

(b) “disturbed area” means an area which is for the time being declared by notification under section 3 to be a disturbed area;

(c) all other words and expressions used herein, but not defined and defined in the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), shall have the meanings respectively assigned to them in those Acts.

3. Power to declare areas to be disturbed areas.—If, in relation to the State of Jammu and Kashmir, the Governor of that State or the Central Government, is of opinion that the whole or any part of the State is in such a disturbed and dangerous condition that the use of armed forces in aid of the civil power is necessary to prevent—

(a) activities involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;

(b) activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and the Constitution of India,

the Governor of the State or the Central Government, may, by notification in the Official Gazette, declare the whole or any part of the State to be a disturbed area.

Explanation.—In this section, “terrorist act” has the same meaning as in *Explanation* to article 248 of the Constitution of India as applicable to the State of Jammu and Kashmir.

4. Special powers of the armed forces.—Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,—

(a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;

(b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be

made, or any structure used as a training camp for armed volunteers or utilised as a hide-out by armed gangs or absconders wanted for any offence;

(c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;

(d) enter and search, without warrant, any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary, and seize any such property, arms, ammunition or explosive substances;

(e) stop, search and seize any vehicle or vessel reasonably suspected to be carrying any person who is a proclaimed offender, or any person who has committed a non-cognizable offence, or against whom a reasonable suspicion exists that he has committed or is about to commit a non-cognizable offence, or any person who is carrying any arms, ammunition or explosive substance believed to be unlawfully held by him, and may, for that purpose, use such force as may be necessary to effect such stoppage, search or seizure, as the case may be.

5. Power of search to include powers to break open locks, etc.—Every person making a search under this Act shall have the power to break open the lock of any door, almirah, safe, box, cupboard, drawer, package or other thing, if the key thereof is withheld.

6. Arrested persons and seized property to be made over to the police.—Any person arrested and taken into custody under this Act and every property, arms, ammunition or explosive substance or any vehicle or vessel seized under this Act, shall be made over to the officer-in-charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest, or as the case may be, occasioning the seizure of such property, arms, ammunition or explosive substance or any vehicle or vessel, as the case may be.

7. Protection of persons acting in good faith under this Act.—No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

8. Repeal and saving.—(1) The Armed Forces (Jammu and Kashmir) Special Powers Ordinance, 1990 (Ord. 3 of 1990), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE PASSPORT (ENTRY INTO INDIA) ACT, 1920

ACT NO. 34 OF 1920 1*

[9th September, 1920.]

An Act to take power to require passports of persons entering
2*[India].

WHEREAS it is expedient to take power to require passports of persons entering 2*[India]; It is hereby enacted as follows:-

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Short title and extent.

1. Short title and extent.- (1) This Act may be called 3*[the Passport (Entry into India) Act, 1920].

(2) It shall extend to 4*[the whole of India], 5***.

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Definitions.

2. Definitions. - In this Act, unless there is anything repugnant in the subject or context,-

"entry" means entry by water, land or air;

"passport" means a passport for the time being in force issued or renewed by the prescribed authority and satisfying the conditions prescribed relating to the class of passports to which it belongs; and

"prescribed" means prescribed by rules made under this Act.

3.

Power to make rules.

3. Power to make rules.- (1) The Central Government may make rules 6* requiring that persons entering 7*[India] shall be in possession of passports, and for all matters ancillary or incidental to that purpose.

(2) Without prejudice to the generality of the foregoing power such rules may-

- (a) prohibit the entry into 7*[India] or any part thereof of any person who has not in his possession a passport issued to him;

Extended to Sikkim (w.e.f. 20.9.1976) vide Notifn. No. S. O. 3392, dated 3.9.1976

1. This Act has been extended to Goa, Daman and Diu with modifications by Regulation 12 of 1962, s. 3 and Sch.; to Dadra and Nagar Haveli by Regulation 6 of 1963, s. 2 and Sch. I; and to Laccadive, Minicoy and Amindivi Islands by Regulation 8 of 1965, s. 3 and Sch.
2. Subs. by Act 36 of 1949, s. 2, for "the Provinces of India".
3. Subs. by Act 15 of 1967, s. 25, for "the Indian Passport Act. 1920".
4. Subs. by Act 36 of 1949, s. 3, for "all the Provinces of India".
5. The words "excluding the State of Hyderabad" subs. by the A.O. 1950. omitted by Act 3 of 1951, s. 3 and Sch.
6. For Passport (Entry into India) Rules, 1950, see Gazette of India, 1950, Pt. II, Sec. 3, p. 91.
7. Subs. by Act 36 of 1949, s. 4, for "Provinces".

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- (b) prescribe the authorities by whom passports must have been issued or renewed, and the conditions with which they must comply, for the purposes of this Act; and
- (c) provide for the exemption, either absolutely or on any condition, of any person or class of persons from any provision of such rules.

(3) Rules made under this section may provide that any contravention thereof or of any order issued under the authority of any such rule shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.

(4) All rules made under this section shall be published in the Official Gazette, and shall thereupon have effect as if enacted in this Act.

1*[(5) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the

successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

4.

Power of arrest.

4. Power of arrest.- (1) Any officer of police, not below the rank of a sub-inspector, and any officer of the Customs Department empowered by a general or special order of the 2*[Central Government] in this behalf may arrest without warrant any person who has contravened or against whom a reasonable suspicion exists that he has contravened any rule or order made under section 3.

(2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police-station and the provisions of section 61 of the Code of Criminal Procedure, 1898, (5 of 1898) shall, so far as may be, apply in the case of any such arrest.

5.

Power of removal.

5. Power of removal. - The 2*[Central Government] may, by general or special order, direct the removal of any person from 3*[India] who, in contravention of any rule made under section 3 prohibiting entry into 3*[India] without passport, has entered therein, and thereupon any officer of the Government shall have all reasonable powers necessary to enforce such direction.

6.

Application of Act to Part B States.

4*6. [Application of Act to Part B States.] Rep. by the Part B States (Laws) Act, 1951 (3 of 1951), s. 3 and Sch.

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1. Ins. by Act 4 of 1986, s.2 and Sch. (w.e.f. 15.5.1986)
 2. Subs. by the A.O. 1937 for "L.G".
 3. Subs. by Act 36 of 1949, s. 4, for "the Provinces".
 4. Ins. by s. 5, ibid.

THE PRIVATE SECURITY AGENCIES (REGULATION) ACT, 2005

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NO. 29 OF 2005

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[23rd June, 2005.]

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An Act to provide for the regulation of private security agencies and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

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Short title, extent and commencement.

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1. Short title, extent and commencement.- (1) This Act may be called the Private Security Agencies (Regulation) Act, 2005.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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Definitions.

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2. Definitions.- In this Act, unless the context otherwise requires,-

(a) "armoured car service" means the service provided by deployment of armed guards along with armoured car and such other related services which may be notified by the Central Government or as the case may be, the State Government from time to time;

(b) "Controlling Authority" means the Controlling Authority appointed under sub-section (1) of section 3;

- (c) "licence" means a licence granted under sub-section (5) of section 7;
- (d) "notification" means a notification published in the Official Gazette;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "private security" means security provided by a person, other than a public servant, to protect or guard any person or property or both and includes provision of armoured car service;
- (g) "private security agency" means a person or body of persons other than a government agency, department or organisation engaged in the business of providing private security services including training to private security guards or their supervisor or providing private security guards to any industrial or business undertaking or a company or any other person or property;
- (h) "private security guard" means a person providing private security with or without arms to another person or property or both and includes a supervisor;
- (i) "State Government", in relation to a Union territory, includes the Administrator of that Union territory appointed by the President under article 239 of the Constitution.

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Appointment of Controlling Authority.

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3. Appointment of Controlling Authority.-(1) The State Government shall, by notification, designate an officer not below the rank of a Joint Secretary in the Home Department of the State or an equivalent officer to be the Controlling Authority for the purposes of this Act.

(2) The State Government may, for efficient discharge of functions by the Controlling Authority, provide it with such other officers and staff as that Government considers necessary.

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Persons or Private Security Agency not to engage or provide private security guard without licence.

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4. Persons or Private Security Agency not to engage or provide private security guard without licence.-No person shall carry on or commence the business of private security agency, unless he holds a licence issued under this Act:

Provided that the person carrying on the business of private security agency, immediately before the commencement of this Act, may continue to do so for a period of one year from the date of such commencement and if he has made an application for such licence within the said period of one year, till the disposal of such application:

Provided further that no private security agency shall provide private security abroad without obtaining permission of the Controlling Authority, which shall consult the Central Government before according such permission.

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Eligibility for licence.

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5. Eligibility for licence.-An application for issue of a licence under this Act shall only be considered from a person after due verification of his antecedents.

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Persons not eligible for licence.

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6. Persons not eligible for licence.-(1) A person shall not be considered for issue of a licence under this Act, if he has been-

(a) convicted of an offence in connection with promotion, formation or management of a company (any fraud or misfeasance committed by him in relation to the company), including an undischarged insolvent; or

(b) convicted by a competent court for an offence, the prescribed punishment for which is imprisonment of not less than two years; or

(c) keeping links with any organisation or association which is banned under any law on account of their activities which pose threat to national security or public order or there is information about such a person indulging in activities which are prejudicial to national security or public order; or

(d) dismissed or removed from Government service on grounds of misconduct or moral turpitude.

(2) A company, firm or an association of persons shall not be considered for issue of a licence under this Act, if, it is not registered in India, or having a proprietor or a majority shareholder, partner or director, who is not a citizen of India.

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Application for grant of licence.

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7. Application for grant of licence.- (1) An application for grant of licence to a private security agency shall be made to the Controlling Authority in such form as may be prescribed.

(2) The applicant shall submit an affidavit incorporating the details in relation to the provisions contained in section 6, ensure the availability of the training for its private security guards and supervisors required under sub-section (2) of section 9, fulfilment of conditions under section 11 and of cases registered with police or pending in a court of law involving the applicant.

(3) Every application under sub-section (1) shall be accompanied by a fee of-

(a) rupees five thousand if the private security agency is operating in one district of a State;

(b) rupees ten thousand if the agency is operating in more than one but up to five districts of a State; and

(c) rupees twenty-five thousand if it is operating in the whole State.

(4) On receipt of an application under sub-section (1), the Controlling Authority may, after making such inquiries as it considers necessary and obtaining no objection certificate from the concerned police authority, by order in writing, either grant a licence or refuse to grant the same within a period of sixty days from the date of receipt of application with complete particulars and the prescribed fee:

Provided that no order of refusal shall be made unless-

(a) the applicant has been given a reasonable opportunity of being heard; and

(b) the grounds on which licence is refused is mentioned in the order.

(5) A licence granted under this section-

- (a) shall be valid for a period of five years unless the same is cancelled under sub-section (1) of section 13;
- (b) may be renewed from time to time after the expiry of five years, for a further period of five years on payment of such fee as may be prescribed; and
- (c) shall be subject to such conditions as may be prescribed.

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Renewal of licence.

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8. Renewal of licence.-
(1) An application for renewal of licence shall be made to the Controlling Authority, not less than forty-five days before the date of expiry of the period of validity thereof, in such form as may be prescribed and shall be accompanied by the requisite fee and other documents required under sections 6, 7 and 11 of this Act.

(2) The Controlling Authority shall pass an order on application for renewal of licence within thirty days from the date of receipt of application complete in all respects.

(3) On receipt of an application under sub-section (1), the Controlling Authority may, after making such inquiries as he considers necessary and by order in writing, renew the licence or refuse to renew the same:

Provided that no order of refusal shall be made except after giving the applicant a reasonable opportunity of being heard.

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Conditions for commencement of operation and engagement of supervisors.

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9. Conditions for commencement of operation and engagement of supervisors.-
(1) Every private security agency shall, within six months of obtaining the licence, commence its activities.

(2) Every private security agency shall ensure imparting of such training and skills to its private security guards and supervisors as may be prescribed:

Provided that the person carrying on the business of private security agency, before the commencement of this Act, shall ensure the required training to its security guards and supervisors within a period of one year from the date of such commencement.

(3) Every private security agency shall, within sixty days from the date of issue of the licence, employ such number of supervisors, as may be prescribed.

(4) A private security agency shall not employ or engage a person as a supervisor unless he fulfils the conditions specified in sub-section (1) of section 10.

(5) While engaging a supervisor of private security guards, every private security agency shall give preference to a person who has experience of serving in the Army, Navy, Air Force or any other Armed forces of the Union or State Police including armed constabularies and Home Guards for a period of not less than three years.

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Eligibility to be a private security guard.

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10. Eligibility to be a private security guard.-(1) A private security agency shall not employ or engage any person as a private security guard unless he-

(a) is a citizen of India or a citizen of such other country as the Central Government may, by notification in the Official Gazette, specify;

(b) has completed eighteen years of age but has not attained the age of sixty-five years;

(c) satisfies the agency about his character and antecedents in such manner as may be prescribed;

(d) has completed the prescribed security training successfully;

(e) fulfils such physical standards as may be prescribed; and

(f) satisfies such other conditions as may be prescribed.

(2) No person who has been convicted by a competent court or who has been dismissed or removed on grounds of misconduct or moral turpitude while serving in any of the armed forces of the Union, State Police Organisations, Central or State Governments or in any private security agency shall be employed or engaged as a private security guard or a supervisor.

(3) Every private security agency may, while employing a person as a private security guard, give preference to a person who has served as a member in one or more of the following, namely:-

(i) Army;

- (ii) Navy;
- (iii) Air Force;
- (iv) any other armed forces of the Union;
- (v) Police, including armed constabularies of States; and
- (vi) Home Guards.

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Conditions of licence.

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11. Conditions of licence.-
(1) The State Government may frame rules to prescribe the conditions on which licence shall be granted under this Act and such conditions shall include requirements as to the training which the licensee is to undergo, details of the person or persons forming the agency, obligation as to the information to be provided from time to time to the Controlling Authority regarding any change in their address, change of management and also about any criminal charge made against them in the course of their performance of duties of the private security agency or as the case may be, a private security guard employed or engaged by them.

(2) The State Government may make provision in the rules to verify about imparting of required training by the private security agency under sub-section (2) of section 9 and to review continuation or otherwise of licence of such private security agency which may not have adhered to the condition of ensuring the required training.

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Licence to be exhibited.

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12. Licence to be exhibited.-Every private security agency shall exhibit its licence or copy thereof in a conspicuous place of its business.

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Cancellation and suspension of licence.

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13. Cancellation and suspension of licence.- (1) The Controlling Authority may cancel any licence on any one or more of the following grounds, namely:-

- (a) that the licence has been obtained on misrepresentation or suppression of material facts;
- (b) that the licence holder has used false documents or photographs;
- (c) that the licence holder has violated the provisions of this Act or the rules made thereunder or any of the conditions of the licence;
- (d) that the licence holder has misused information obtained by him during the discharge of his duties as the private security agency to any industrial or business undertaking or a company or any other person;
- (e) that the licence holder by using any letter-head, advertisement or any other printed matter or in any other manner represented that the private security agency is an instrumentality of the Government or such agency is or has been using a name different from that for which licence has been granted;
- (f) that the licence holder is or has been impersonating or permitting or aiding or abetting any body to impersonate as a public servant;
- (g) that the private security agency had failed to commence its activities or to engage a supervisor within the specified time period;
- (h) that the licence holder is or has wilfully failed or refused to render the services agreed to any person;
- (i) that the licence holder has done any act which is in violation of a court order or an order of a lawful authority or is or has been advising, encouraging or assisting any person to violate any such order;
- (j) that the licence holder has violated the provisions of the Acts given in the Schedule which may be modified by the Central Government, by notification in the Official Gazette;
- (k) that there have been repeated instances when the private security guard or guards provided by the private security agency-
 - (i) failed to provide private security or were guilty of gross negligence in not providing such security;
 - (ii) committed a breach of trust or misappropriated the property or a part thereof which they were supposed to protect;
 - (iii) were found habitually drunk or indisciplined;

- (iv) were found to be involved in committing crimes; or
- (v) had connived or abetted a crime against the person or property placed under their charge; or
 - (1) that the licence holder has done any act which poses a threat to national security, or did not provide assistance to the police or other authority in the discharge of its duties or acted in a manner prejudicial to national security or public order or law and order.
 - (2) Where the Controlling Authority, for reasons to be recorded in writing, is satisfied that pending the question of cancelling of licence on any of the grounds mentioned in sub-section (1), it is necessary to do so, that Controlling Authority may, by order in writing, suspend the operation of the licence for such period not exceeding thirty days as may be specified in the order and require the licence holder to show cause, within fifteen days from the date of issue of such order, as to why the suspension of the licence should not be extended till the determination of the question of cancellation.
 - (3) Every order of suspending or cancelling of a licence shall be in writing and shall specify the reasons for such suspension or cancellation and a copy thereof shall be communicated to the person affected.
 - (4) No order of cancellation of licence under sub-section (1) shall be made unless the person concerned has been given a reasonable opportunity of being heard.

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Appeals.

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14. Appeals.-
(1) Any person aggrieved by an order of the Controlling Authority refusing the licence under sub-section (4) of section 7 or renewal under sub-section (3) of section 8 or order of suspension of licence under sub-section (2) of section 13 or cancellation of licence under sub-section (1) of that section, may prefer an appeal against that order to the Home Secretary of the State Government within a period of sixty days of the date of such order:

Provided that an appeal may be admitted after the expiry of the said period of sixty days if the appellant satisfies the State Government that he has sufficient cause for not preferring the appeal within that period.

(2) Every appeal under sub-section (1) shall be made in such form as may be prescribed and shall be accompanied by a copy of the order appealed against.

(3) Before disposing of an appeal, the State Government shall give the appellant a reasonable opportunity of being heard.

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Register to be maintained by a private security agency.

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15. Register to be maintained by a private security agency.-(1) Every private security agency shall maintain a register containing-

(a) the names and addresses of the persons managing the private security agency;

(b) the names, addresses, photographs and salaries of the private security guards and supervisors under its control;

(c) the names and addresses of the persons whom it had provided private security guards or services; and

(d) such other particulars as may be prescribed.

(2) The Controlling Authority may call for such information as it considers necessary from any private security agency, supervisor or private security guard to ensure due compliance of the Act.

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Inspection of licence, etc.

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16. Inspection of licence, etc.-The Controlling Authority or any other officer authorised by it in this behalf may at any reasonable time, enter the premises of the private security agency and inspect and examine the place of business, the records, accounts and other documents connected with the licence and may take copy of any document.

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Issue of photo identity card.

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17. Issue of photo identity card.- (1) Every private security guard shall be issued a photo identity card, by the private security agency employing or engaging the guard.

(2) The photo identity card under sub-section (1) shall be issued in such form as may be prescribed.

(3) Every private security guard or supervisor shall carry on his person the photo identity card issued under sub-section (1) and shall produce it on demand for inspection by the Controlling Authority or any other officer authorised by it in this behalf.

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Disclosure of information to unauthorized person.

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18. Disclosure of information to unauthorized person.- (1) Any person who may be or has been employed or engaged as a private security guard by the private security agency shall not divulge to anyone other than the employer, or in such manner and to such person as the employer directs, any information acquired by him during such employment with respect to the work which he has been assigned by such employer, except such disclosure as may be required under this Act or in connection with any inquiry or investigation by the police or as may be required by an authority or process of law.

(2) All private security guards of a private security agency shall render necessary assistance to the police or to such authority in the process of any investigation pertaining to the activities of that agency.

(3) If violation of any law is noticed by any private security guard during the course of discharge of his duties, he shall bring it to the notice of his superior, who in turn shall inform the police either through his employer or agency or on his own.

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Delegation.

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19. Delegation.-The State Government may, by notification, direct that any power or function (except the powers to make rules under section 25)-

(a) which may be exercised or performed by it, or

(b) which may be exercised or performed by the Controlling Authority, under this Act, may, in relation to such matter and subject to such conditions, if any, as may be specified in the notification, be also exercised or performed by such officer or authority subordinate to the Government or officer subordinate to the Controlling Authority, as may be specified in such notification.

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Punishment for contravention of certain provisions.

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20. Punishment for contravention of certain provisions.-(1) Any person who contravenes the provisions of section 4 shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to twenty-five thousand rupees, or with both.

(2) Any person or private security agency who contravenes, the provisions of sections 9, 10 and 12 of the Act, shall be punishable with a fine which may extend to twenty-five thousand rupees, in addition to suspension or cancellation of the licence.

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Penalty for unauthorized use of certain uniforms.

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21. Penalty for unauthorized use of certain uniforms.-If any private security guard or supervisor wears the uniform of the Army, Air force, Navy or any other armed forces of the Union or Police or any dress having the appearance or bearing any of the distinctive marks of that uniform, he and the proprietor of the private security agency shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees, or with both.

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Offences by companies.

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22. Offences by companies.- (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

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Indemnity.

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23. Indemnity.-No suit, prosecution or other legal proceeding shall lie against the Controlling authority or any other officer authorised by it in respect of anything in good faith done or intended to be done under this Act.

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Framing of model rules for adoption by States.

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24. Framing of model rules for adoption by States.-The Central Government may frame model rules in respect of all or any of the matters with respect to which the State Government may make rules under this Act, and where any such model rules have been framed the State

Government shall, while making any rules in respect of that matter under section 25, so far as is practicable, conform to such model rules.

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Power of State Government to make rules.

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25. Power of State Government to make rules.-(1) The State Government may, by notification, make rules for carrying out the provisions 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 procedure for verification of character and antecedents under clause (c) of sub-section (1) of section 10; the type of training under clause (d) of sub-section (1) of section 10; the physical standard under clause (e) of sub-section (1) of section 10; and other conditions under clause (f) of sub-section (1) of section 10;

(b) the number of supervisors to be employed under sub-section (3) of section 9;

(c) the form of an application for grant of licence under sub-section (1) of section 7;

(d) the form in which the licence to be granted under sub-section (4) of section 7 and conditions subject to which such licence to be granted under section 11;

(e) the form of an application for renewal of licence under sub-section (1) of section 8;

(f) the form under sub-section (2) of section 14 for preferring an appeal;

(g) particulars to be maintained in a register under sub-section (1) of section 15;

(h) the form in which photo identity card under sub-section (2) of section 17 be issued;

(i) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

(4) In respect of Union territories, every rule made to carry out the provisions of the Act shall be laid before each House of Parliament and where there exists a Legislative Assembly, before that Assembly.

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THE SCHEDEULE

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[See section 13(1)(j)]

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THE SCHEDEULE

[See section 13(1)(j)]

(1) The Payment of Wages Act, 1936 (4 of 1936).

(2) The Industrial Disputes Act, 1947 (14 of 1947).

(3) The Minimum Wages Act, 1948 (11 of 1948).

(4) The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).

(5) The Payment of Bonus Act, 1965 (21 of 1965).

(6) The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970).

(7) The Payment of Gratuity Act, 1972 (39 of 1972).

(8) The Equal Remuneration Act, 1976 (25 of 1976).

(9) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979).

T. K. VISWANATHAN,

Secy. to the Govt. of India.