

## APPENDIX XXXVII

### (Regulation 677)

#### **Bengal police special constabulary Reserve.**

1. The special constabulary Reserve is established under section 2 of the police Act, 1861 (V of 1861). The organization is purely voluntary and non-official and is open to gentlemen who are Indian citizens and are not already members of any Auxiliary or Territorial Force Unit. The members of the special constabulary Reserve shall be appointed in terms of a contract in the form given below and shall receive a certificate of enrolment under section 8 of the said Act.

2. The object of the organization is to assist the regular police Force in the districts of West Bengal where such steps seem desirable in case of necessity in the maintenance of law and order and the prevention of sabotage; and

3. Every special constable shall receive a brassard, a whistle and a baton or half-lathi. He shall be required to provide himself with khaki shorts, shirts and a khaki topee. Special care must be taken to see that the equipment-Brassard, whistle and baton or half-lathi-are kept in a place of readiness where they can be instantly available in the event of need. The loss of any item of equipment shall be reported at once to the section leader who shall report to the Superintendent of the district.

4. Special constables shall be grouped conveniently according to their residences or places of occupation and shall not normally be required to serve at any considerable distance from their homes. Each group shall be under a section leader, who shall be required to maintain a list of the members of his section with their telephone numbers, if any, and addresses. In the event of the necessity of mobilization, information will be given to the section leader, who shall be responsible for collecting his group. Special constables are required to report to their section leader any change of address or telephone number. Similarly, they shall inform their section leader if they are going to be absent from their place of residence or employment on leave or other duty appertaining to their private occupation. As far as possible, a section shall be divided into two parts by the section leader, each part to take up duty alternately in order to allow reliefs and prevent the necessity of keeping special constables out for long hours without rest or food, or to interfere unduly with their own work.

5. Powers of special constables are restricted to the following: - All special constables shall arrest any person committing in their view any of the following offences:

(i) Murder of murderous assault.

(ii) Robbery, i.e., committing theft by force.

(iii) Dacoity, i.e., 5 or more persons committing robbery. A Special constable may arrest without a warrant any person committing in his presence in any street or public place:

(a) assault, if such person-

(i) is unknown to such special constable and when asked by such special constable to give his name and address refuses to give the same or gives a name and address which such special constables has reason to believe to be false, or cannot then and there ascertain to be true, or



(ii) is unknown to such special constables, and his name and address cannot be ascertained then and there, and he refuses to accompany the special constable to a police station on being required to do so;

(b) wrongful restraint, such as, obstructing or preventing any one from going to his work or business, stopping or turning back any vehicle, forcing any one to get down from his conveyance, placing barriers across any public road to hinder traffic, or cutting any telegraph, telephone or electric wire.

(6) Duties of special constables-

(a) Every special constable shall, to the best of his ability, obtain intelligence of any of the following offences:

(i) Murder.

(ii) Rioting and disorder.

(iii) Any likelihood of people being prevented from pursuing their ordinary avocations.

(b) All persons arrested shall forthwith be taken to the nearest police-station and made over to the custody of the officer in charge with a full report of the circumstances under which the arrests were made.

© All members shall submit any information obtained as regards offences enumerated in sub-rule (a) above to their section leader.

(d) All special constables shall assist the authorities in every way when engaged in maintaining peace and order. Note- All special constables should be warned against acts of indiscretion in dealing with persons in the street. Every person is at liberty to wear what he likes and say what he likes as long as he does not resort to intimidation, and therefore, tact and patience are essential on the part of special constables in carrying out their duties.

7. The duties of special constables on such occasions as they are mobilized are likely to fall under the following heads:

(i) To see, in general, that the law-abiding public on a special constable's beat or in the vicinity of his post are permitted to follow their lawful vocations. For instance to see that a shop-keeper can keep his shop open and that customers can resort there without let or hindrance, intimidation or threat; that users of the King's highways, either on foot or by tram, bus, car or other vehicle, can proceed without let or hindrance; that highways are not obstructed; that vehicles are not stopped; that processions with music carry a police license (except on certain notified festivals) ; that other processions proceed in an orderly manner on the left hand side of the road; that all wheeled traffic keeps to the left of the road and obeys any signals of any police officer or special constable who may be regulating the traffic.

(ii) To see that no unauthorized persons enter into any buildings guarded by special constables.

(iii) To be familiar with the notes on firing.

(iv) If on ordinary beat duty in areas handed over by the police for watch and ward, to patrol such areas with a view to safeguarding life and property in that area and to prevent offences either against person or property.

8. Members of the special Constabulary Reserve have the power to arrest, without warrant, persons concerned in serious crime, in possession of implements of house breaking, or properties suspected to be stolen. A list of the principal items of serious crime is given in schedule A. In making an arrest no more force is to be used than what is absolutely necessary. No unnecessary force shall be exercised by the special constables in the performance of their duties and no vexatious arrests shall be made by them.



9. It should be noted that these powers are only exercisable when the section or an individual member has been called upon to report for duty by an officer of or above the rank of the officer in charge of a police station.
10. Special constables shall not turn out with firearms unless specially instructed to do so or unless the situation seems to demand it.
- Firing by an individual section leader or an order to fire given by a section leader, on his own initiative, is strictly forbidden except in circumstances where the firing is imperative in the exercise of the right of private defense. The responsibility for proving that the circumstances were such as to necessitate firing rests on the individual who fires or gives the order to fire. Firing shall be so directed as to be at once effective and such as, with the minimum injury to convince the crowd of the necessity of dispersing. Before firing, full and sufficient warning of the intention of firing must be given and firing must cease as soon as the crowd shows the slightest inclination to retire or disperse. In other circumstances, no member of the special Constabulary Reserve shall fire except under the orders of a Magistrate. Any person concerned in firing shall immediately submit a report through his section leader to the Superintendent, narrating the circumstances which necessitated firing, the number of rounds fired, the apparent results, and the steps taken to succour casualties, if any.
11. The law with regard to the right of private defence as contained in sections 96 to 106 of the Indian Penal Code has been inserted in schedule B.
12. In order that this organization may be efficient in times of necessity it is essential that instruction should be given to the members there of from time to time. Occasional or periodical parades shall be held when lectures may be delivered by regular police Officers on topography, powers and duties.
13. Each special constable will receive general instructions on musketry as provided in Chapter XVI of the Drill Manual. He will also undergo a musketry practice with ten rounds of 410 ammunition (five rounds from kneeling position and five rounds from standing position) per year from a distance of one hundred yards.

## **SCHEDULE A**

### **(Rule 8)**

#### **Indian penal code**

- Section 131.- Serious crime, i.e., attempting to seduce an officer, soldier, etc.
- Section 143 to 147.- Being members of an unlawful assembly; rioting.
- Section 231.- Counterfeiting coins.
- Section 302.- Murder
- Section 307.- Attempted murder.
- Section 324. to 326.- Causing hurt by a dangerous weapon or means; causing grievous hurt.
- Section 328.- Administration of stupefying drugs.
- Sections 341 and 342.- wrongfully restraining or confining any person.
- Sections 353.- Assault or use of criminal force on a public servant to deter him from discharging his duties.
- Section 354.- Assault on a woman.
- Section 376.- Rape
- Sections 379 to 382, 392.- Theft, theft with violence (robbery). Section 428.- Mischief by killing or rendering useless any animal valued at Rs. 10 or more.



Sections 448,454 to 457.- House trespass, lurking house trespass and house-breaking.

## **SCHEDULE B**

### **(Rule 11)**

#### **Sections 96 to 106 of the Indian penal code**

96. Things done in private defence.-Nothing is an offence which is done in the exercise of the right of private defence.

97. Right of private defence of the body and of property.- Every person has a right, subject to the restrictions contained in section 99, to defend First- his own body, and the body of any other person, against any offence affecting the human body; Secondly- the property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass

98. Right of private defense against the act of a person of unsound mind, etc.- When an act, which would otherwise be a certain offence, is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defense against that act which he would have if the act were that offence.

Illustrations. -(a) z, under the influence of madness, attempts to kill A; z is guilty of no offence. But A has the same right of private defense which he would have if z were sane. (b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house breaker attacks A. Here Z by attacking A under this misconception, commits no offence. But A has the same right of private defense against Z, which he would have if Z were not acting under that misconception. 99. Acts against which there is no right of private defense. - There is no right of private defense against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

There is no right of private defense against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under color of his office, though that direction may not be strictly justifiable by law.

There is no right of private defense in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised. - The right of private defense in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defense. Explanation 1.-A person is not deprived of the right of private defense against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant. Explanation 2.- A person is not deprived of the right of private defense against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.



100. When the right of private defense of the body extends to causing death.

- The right of private defense of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated namely:

First- such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault; Secondly- Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly- an assault with the intention of committing rape; Fourthly-an assault with the intention of gratifying unnatural last;

Fifthly- an assault with the intention of kidnapping or abducting; Sixthly- an assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

101. When such right extends to causing any harm other than death. - If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defense of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

102. Commencement and continuance of the right of private defense of the body. - The right of private defense of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

103. When the right of private defense of property extends to causing death.

- The right of private defense of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrongdoer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:

First- robbery:

Secondly-house-breaking by night;

Thirdly- mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

Fourthly- theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defense is not exercised.

104. When such right extends to causing any harm other than death.- If the offence, the committing of which or the attempting to commit which, occasions the exercise of the right of private defense, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrongdoer of any harm other than death.

105. Commencement and continuance of the right of private defense of property: - The right of private defense of property commences when a reasonable apprehension of danger to the property commences. The right of private defense of property against theft continues till the offender has affected his retreat with the property or either the assistance of the public

authorities is obtained, or the property has been recovered. The right of private defense of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues. The right of private defense of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief. The right of private defense of property against house breaking by night continues as long as the house trespass which has been begun by such house breaking continues.

106. Right of private defense against deadly assault when there is risk of harm to innocent person. - If in the exercise of the right of private defense against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defense extends to the running of that risk.

Illustration. - A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defense without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.