

The Indian Seamen (Litigation) Rules, 1944

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Rule THE-INDIAN-SEAMEN-LITIGATION-RULES-1944 of 1944

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2033.

No. 709, dated 6th May, 1944. - Whereas by orders dated the 25th September, 1943 and the 3rd February, 1945, the provisions of the Indian Soldiers (Litigation) Act, 1925 (4 of 1925) have been directed to apply to persons subject to the 'Indian Navy (Discipline) Act, 1934 (34 of 1934) and persons of Indian domicile subject to the Naval Discipline Act (29 and 30 Vict., c. 109), and to persons who, not being members of Armed Forces of India, are attached to, or employed by, the Indian Navy, in the same manner as they apply to Indian soldiers; Now, therefore, in exercise of the powers conferred by Sec. 13 of the said Act as so applied, the Central Government, after consulting the High Courts concerned, is pleased to make the following rules :

1.

(i) These rules may be called the Indian Seamen (Litigation) Rules, 1944. (ii) They extend to the whole of India except Jammu and Kashmir.

2.

In these rules, (i) "the Act", means the Indian Soldiers (Litigation) Act, 1925. (ii) "Form", means a form annexed to these rules; (iii) ["seaman", means any person subject to the Indian Navy (Discipline) Act, 1934 (34 of 1934), any person of Indian domicile subject to the Naval Discipline Act (29 and 30 Vict, c. 109), or any person who, not being a member of the Armed Forces of India, is attached to, or employed by, the Indian Navy;] [See now the Navy Act, 1957 (62 of 1957)] (iv) all words defined in the Act and used herein shall, unless there be anything repugnant in the subject or context, have the meanings respectively assigned to them in the Act.

3.

The prescribed authority for the purposes of sub-clause (iv) of Cl. (b) of Sec. 3 and Secs. 6,7 and 8 of the Act shall be the Commanding Officer of the Ship or Naval Establishment in which the seaman is for the time being serving; and all communications under the Act to any such officer may be addressed to him care of [Naval Headquarters, New Delhi] [Substituted by No. 498, dated 7th april, 1945].

4.

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

5.

The notice given by the Court under Sec. 6 of the Act shall be in Form B and the certificate of the prescribed authority under Sec. 7 of the Act, shall be in Form C.

6.

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

7.

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

8. [Substituted by No. 498, dated 7th april, 1945]

The prescribed authority for the purpose of Sec. 12 of the Act shall be as respects any seaman who is an officer, the Chief of the Naval Staff and as respects any seaman who is not an officer, the Captain, Naval Barracks, Bombay.]Form A[See rule 4]Collector's Certificate under Sec. 5 of the Indian Soldiers (Litigation) Act, 1925FromThe Collector,DistrictToTheIn reNo.....of 19versusNo. datedSir,I have the honour to certify under Sec. 5 of the Indian Soldiers (Litigation) Act, 1925 (4 of 1925) that I have reason to believe thatson of....., who is an Indian seaman ordinarily residing/having property in my district and who is a party in the above-mentioned (enter suit, appeal, application or other proceeding) now pending in (enter name of Court) is unable to appear therein.Yours faithfully,Collector,Note. - (1) This certificate should be sent by post in registered cover, or by hand, and an acknowledgment should be obtained for it.(2)It should be addressed in the

case of a High Court, to the Registrar of the Court, or in the case of a Board of Revenue, to the Secretary of such Board, or in the case of a Financial Commissioner, to the Clerk of the Court, or in other cases, to the Presiding Officer of the Court. Form B (See rule 5) Notice under Sec. 6 of the Indian Soldiers (Litigation) Act, 1925 In re No. of 19..... versus To The Commanding Officer (enter name of Ship / Establishment), Care of [Naval Headquarters, New Delhi] [Substituted by No, 498, dated 7th April, 1945] Please take notice that upon the certificate of the Collector of under Sec. 5 of the Indian Soldiers (Litigation) Act, 1925 (4 of 1925) [having had reason to believe that, son of, an Indian seaman who is a party in the above-mentioned proceedings now pending in this Court and is not represented by any person duly authorised to appear, plead or act on his behalf is unable to appear therein, this Court has, under Sec. 6 of the said Act, suspended the proceeding. If, within the period prescribed in Sec. 8 of the said Act, no certificate is received from you under Sec. 7 thereof, the Court will, if it thinks fit, continue the proceeding. Given under my hand and the seal of the Court this, the day of 19..... Note. - This notice should be sent by post in a registered cover, or by hand, and an acknowledgment should be obtained for it. Form C (See rule 5) Certificate under Sec. 7 of the Indian. Soldiers (Litigation) Act, 1925 From The Commanding Officer (enter name of Ship / Establishment). To No. of 19..... versus No. dated Sir, I have the honour to acknowledge receipt of your notice dated under Sec. 6 of the Indian Soldiers (Litigation Act, 1925 (4 of 1925), in the above-mentioned proceeding and to certify under Sec. 7 of the said Act that son of, in respect of whom the above-mentioned notice has been given, is serving under special conditions and that a postponement of the proceeding in respect of that seaman is necessary in the interests of justice. Yours faithfully, Commanding Officer. Notes. - (i) This certificate should be sent by post in a registered cover, or by hand, and an acknowledgment should be obtained for it. (ii) It should be addressed in the case of a High Court, to the Registrar of the Court, or in the case of a Board of Revenue, to the Secretary of such Board, or in the case of a Financial Commissioner, to the Clerk of the Court, or in other cases, to the Presiding Officer of the Court. Form D [See rule 6] Certificate under rule 6 of the Indian Seamen (Litigation) Rules, 1944 From To In re No. of 19..... versus No., dated Sir, I have the honour to invite a reference to my letter No dated and to certify under rule 6 of the Indian Seamen (Litigation) Rules, 1944, that circumstances no longer exist for the postponement of the above mentioned (enter suit, appeal, application or other proceeding) pending in (enter name of Court) wherein so of now an Indian seamen is a party. Yours faithfully, Commanding Officer Notes. - (i) This certificate should be sent by post in a register cover, or by hand, and acknowledgment should be obtained for it. (ii) It should be addressed in the case of a High Court, to the Registrar of the Court, or in the case of a Board of Revenue, to the Secretary of such Board, or in the case of a Financial Commissioner, to the Clerk of the Court, or in other cases, to the Presiding Officer of the Court.