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रजिस्ट्री सं० डी-221 REGISTERED No. D. 221

1007

भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 157] नई दिल्ली, सोमवार, अक्तूबर 11, 1965/आश्विन 19, 1887

No. 157] NEW DELHI, MONDAY, OCTOBER 11, 1965/ASVINA 19, 1887

इस भाग में भिन्न 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.

IndiaCode

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 8th October 1965

G.S.R. 1501.—In exercise of the powers conferred by section 6 of the Goa, Daman and Diu (Administration) Act, 1962 (1 of 1962), the Central Government hereby extends to the Union Territory of Goa, Daman and Diu the Bombay Home Guards Act, 1947 (Bombay Act 3 of 1947), as at present in force in the State of Maharashtra, subject to the following modifications namely:—

Modification

In the said Act,—

1. For the expression "State Government" wherever it occurs the expression "Lieutenant Governor" shall be substituted.

2. For the words "State of Maharashtra" wherever they occur except in the preamble, the words "Union territory of Goa, Daman and Diu" shall be substituted.

3. In section 1, for sub-section (3) the following sub-section shall be substituted namely:—

"(3) It shall come into force at once".

4. After section 1, the following section shall be inserted, namely:—

1A. "*Definitions.*—In this Act, unless the context othewise requires,—

(a) "Lieutenant Governor" means the Lieutenant Governor of the Union territory of Goa, Daman and Diu;

(b) "Official Gazette" means the official Gazette of the Union territory of Goa, Daman and Diu.

5. In section 2,—

(i) in sub-section (1),—

(a) for the words, figures and brackets "each of the areas specified in sub-section (3) of section 1 and for each of the areas notified under the said sub-section (3)" the words "the Union Territory of Goa, Daman and Diu" shall be substituted;

(b) the following proviso shall be added at the end, namely:—

"Provided that the Lieutenant Governor may, by notification in the official Gazette, divide the Union Territory of Goa, Daman and Diu into two or more areas and constitute such a volunteer body for each such area.";

(ii) sub-section (1A) shall be omitted;

(iii) in sub-section (2), for the word "shall" the word "may" shall be substituted;

(iv) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Lieutenant Governor shall appoint a Commandant General of the Home Guards in whom shall vest the general supervision and control of the Home Guards throughout the Union territory of Goa, Daman and Diu and until a Commandant is appointed under sub-section (2), the Commandant General may also exercise the powers and perform the functions assigned to the Commandant by or under this Act."

6. In section 3, sub-section (3) shall be omitted.

7. In section 5, in sub-section (2), for the words "Commissioner of Police, Bombay, in Greater Bombay and of the District Magistrate, elsewhere" the words "District Magistrate" shall be substituted.

8. In section 6A, in sub-section (2), for the words "Deputy Commissioner for Police in Greater Bombay and Assistant or Deputy Superintendent of Police elsewhere" the words "Deputy Superintendent of Police" shall be substituted.

9. In section 6B,—

(i) in sub-section (3), the words "or it" shall be omitted.

(ii) in sub-section (4), the words "or itself" and "or it" shall be omitted;

(iii) the following explanation shall be added at the end, namely:—

"*Explanation.*—Where the Commandant General, while exercising the powers of the Commandant, passes any order under sub-section (1) or sub-section (1A)—

(a) the appeal from such order shall lie to the Lieutenant Governor;

(b) for the purposes of sub-section (4), the power of revision in respect of such order shall vest in the Lieutenant Governor.".

10. Section 9A, sub-section (1) shall be omitted.

11. Section 10 shall be omitted.

ANNEXURE

The Bombay Home Guards Act, 1947 (Bombay Act 3 of 1947) as extended to the Union territory of Goa, Daman and Diu.

Bombay Act No. III of 1947

AN ACT TO PROVIDE FOR THE CONSTITUTION OF HOME GUARDS

Whereas it is expedient to provide a volunteer organization for use in emergencies and for other purposes in the State of Bombay, it is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Bombay Home Guards Act, 1947.

(2) It extends to the whole of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force at once.

1A. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Lieutenant Governor" means the Lieutenant Governor of the Union Territory of Goa, Daman and Diu;

(b) "Official Gazette" means the official Gazette of the Union Territory of Goa, Daman and Diu.

2(1). **Constitution of Home Guards and appointment of Commandant General and Commandant.**—(1) The Lieutenant Governor shall constitute for the Union Territory of Goa, Daman and Diu a volunteer body called the Home Guards, the members of which shall discharge such functions and duties in relation to the protection of persons, the security of property and the public safety as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder:

Provided that the Lieutenant Governor may, by notification in the Official Gazette, divide the Union Territory of Goa, Daman and Diu into two or more areas and constitute such a volunteer body for each such area.

(1A) * * * * * *

(2) The Lieutenant Governor may appoint a Commandant of each of the Home Guards constituted under sub-section (1).

(3) The Lieutenant Governor shall appoint a Commandant General of the Home Guards in whom shall vest the general supervision and control of the Home Guards throughout the Union Territory of Goa, Daman and Diu and until a Commandant is appointed under sub-section (2), the Commandant General may also exercise the powers and perform the functions assigned to the Commandant by or under this Act.

3. **Appointment of members.**—(1) Subject to the approval of the Commandant General, the Commandant may appoint as members of the Home Guards such number of persons, who are fit and willing to serve, as may from time to time be determined by the Lieutenant Governor, and may appoint any such member to any office of command in the Home Guards.

(2) Notwithstanding anything contained in sub-section (1) the Commandant General may, subject to the approval of the Lieutenant Governor, appoint any such member to any post under his immediate control.

(3) * * * * * *

4. **Functions and duties of members.**—(1) The Commandant may at any time call out a member of the Home Guards for training or to discharge any of the functions or duties assigned to the Home Guards in accordance with the provisions of this Act and the rules made thereunder.

(2) The Commandant General may in an emergency call out a member of the Home Guards for training or to discharge any of the said functions or duties in any part of the Union Territory of Goa, Daman and Diu.

5. **Powers, protection and control.**—(1) A member of the Home Guards when called out under section 4 shall have the same powers, privileges and protection as an officer of police appointed under any Act for the time being in force.

(2) No prosecution shall be instituted against a member of the Home Guards in respect of anything done or purporting to be done by him in the discharge of his functions or duties as such member except with the previous sanction of the District Magistrate.

6. **Control by officers of police force.**—The members of the Home Guards when called out under section 4 in aid of the police force shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed by rules made under section 8.

6A. **Certificate, arms, etc., to be delivered up by person ceasing to be member.**—(1) Every person who for any reason ceases to be a member of the Home Guards shall forthwith deliver up to the Commandant or to such person and at such place as the Commandant may direct, his certificate of appointment or of office and the arms, accoutrements, clothing and other necessaries which have been furnished to him as such member.

(2) Any Magistrate and for special reasons which shall be recorded in writing at the time, any police officer not below the rank of a Deputy Superintendent of Police may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessaries not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898 (V of 1898), by a police officer or if the Magistrate or the police officer issuing the warrant so directs by any other person.

(3) Nothing in this section shall be deemed to apply to any article which under the orders of the Commandant General has become the property of the person to whom the same was furnished.

6B. **Punishment of members for neglect of duty, etc.**—(1) The Commandant shall have the authority to suspend, reduce or dismiss or fine, to an amount not exceeding fifty rupees, any member of the Home Guards, under his control, if such member, without reasonable cause, on being called out under section 4 neglects or refuses to obey such order or to discharge his functions and duties as a member of Home Guards or to obey any lawful order or direction given to him for the performance of his functions and duties or is guilty of any breach of discipline or misconduct. The Commandant shall also have the authority to dismiss any member of the Home Guards on the ground of conduct which has led to his conviction on a criminal charge. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(1A) Notwithstanding anything contained in this Act the Commandant shall have the authority to discharge any member of the Home Guards at any time subject to such conditions as may be prescribed if, in the opinion of the Commandant, the services of such member are no longer required. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(2) When the Commandant General or the Commandant passes an order for suspending, reducing, dismissing or fining any member of the Home Guards under sub-section (1), he shall record such order or cause the same to be recorded, together with the reasons therefor and a note of the inquiry made in writing, and no such order shall be passed by the Commandant General or the Commandant unless the person concerned is given an opportunity to be heard in his defence.

(3) Any member of the Home Guards aggrieved by an order of the Commandant may appeal against such order to the Commandant General and any such member aggrieved by an order of the Commandant General may appeal against such order to the Lieutenant Governor, within thirty days of the date on which he was served with notice of such order. The Commandant General or the Lieutenant Governor, as the case may be, may pass such order as he thinks fit.

(4) The Commandant General or the Lieutenant Governor may at any time call for and examine the record of any order passed by the Commandant or Commandant General, respectively, under sub-section (1) or (1A) for the purpose of satisfying himself as to the legality or propriety of such order passed by the Commandant or the Commandant General, as the case may be, and may pass such order with reference thereto as he thinks fit.

(5) Every order if no appeal is made therefrom as hereinbefore provided and every order passed in appeal or revision under this section shall be final.

(6) Any fine imposed under this section may be recovered in the manner provided by the Code of Criminal Procedure, 1898 (V of 1898) for the recovery of fines imposed by a Court as if such fine were imposed by a Court.

(7) Any punishment inflicted on a member of the Home Guards under this section shall be in addition to the penalty to which such member is liable under section 7 or any other law for the time being in force.

Explanation.—Where the Commandant General, while exercising the powers of the Commandant, passes any order under sub-section (1) or sub-section (1A)—

(a) the appeal from such order shall lie to the Lieutenant Governor;

(b) for the purposes of sub-section (4), the power of revision in respect of such order shall vest in the Lieutenant Governor.

7. **Penalty.**—(1) If any member of the Home Guards, on being called out under section 4, without reasonable excuse, neglects or refuses to obey such order, or to discharge his functions as a member of the Home Guards, or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both.

(1A) If any member of the Home Guards wilfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provisions of sub-section (1) of section 6A, he shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

(2) No proceedings shall be instituted under sub-section (1) or (1A) without the previous sanction of the Commandant.

(3) A police officer may arrest without warrant any person who commits an offence punishable under sub-section (1) or (1A).

8. **Rules.**—The Lieutenant Governor may make rules consistent with this Act,—

(a) providing for the exercise by any officer of the Home Guards of the powers conferred by section 4 on the Commandant and the Commandant General;

(b) providing for the exercise of control by officers of the police force over members of the Home Guards when acting in aid of the police force;

(c) regulating the organisation, appointment, conditions of service, function, discipline, arms accoutrements and clothing of members of the Home Guards and the manner in which they may be called out for service;

(d) regulating the exercise by members of the Home Guards of any of the powers exercisable under section 5 of this Act;

(e) generally for giving effect to the provisions of this Act.

9. **Members of Home Guards to be public servants.**—Members of the Home Guards acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

9A. **Home Guards not disqualified from contesting elections to the local bodies.**—

* * * *

(2) Notwithstanding anything contained to the contrary in any other law for the time being in force, a member of the Home Guards shall not be disqualified for being chosen as, and for being, a member of any local authority merely by reason of the fact that he is a member of the Home Guards.

10. * * * * * *

[No. F. 7/37/65-UTL.]

A. D. PANDE, Jt. Secy.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1965