

RESERVE AND AUXILIARY AIR FORCES ACT, 1952

62 of 1952

[22nd August, 1952]

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STATEMENT OF OBJECTS AND REASONS "It is necessary to constitute certain Reserves for the Air Force in order to enable quick expansion in an emergency. The Reserves proposed will be constituted from outgoing Indian Air Force personnel, civilian pilots and technicians, and by raising an Auxiliary Force of volunteers from the public.

2. Regular Air Force Reserve. The Regular Air Force Reserve will consist of Indian Air Force officers and airmen transferred after completion or termination of the period of their regular service to this Reserve subject to the existence of vacancies. The initial period of Reserve service will normally be 5 years for officers and 6 years for airmen subject also to their reaching such age limit as may be prescribed by the Government. Those extended Service Commissioned Officers whose term of employment expires prior to the formation of this Reserve will also be liable to serve in the Reserve.

3. Air Defence Reserve. The constitution of the Air Defence Reserve requires that a census should be taken of the civilian technical man-power available in the country which could be utilised if occasion arises. All persons within certain age limits possessing certain flying or other technical qualifications would be required to furnish certain particulars to the appropriate authority and submit themselves for medical examination. A register of persons who are fit for service would be maintained, and if and when occasion arises persons whose names are entered in the register will be called out for service. It is.

necessary to have legislation for this purpose on account of the shortage of trained personnel which obtains at present, and which is likely to persist for some time; and also to safeguard the interests of those who are called out from their jobs for training or required to serve in an emergency. Provision is made requiring civil employers to grant any enrolled person such leave as may be necessary and to have him reinstated into civil employment after the termination of the period during which he has been called out.

4. Auxiliary Air Force. The Auxiliary Air Force allows the enrolment of civilian volunteers (including Government servants) to give them part-time Air Force training. This provides for the fighter defence of the locality, in which its self contained units and squadrons are raised. It may be looked at as the Territorial Army's air counterpart. Advisory Committees will be set up in big towns, where it is intended to locate the Auxiliary Air Force Squadrons to maintain close liaison with the civil side. These Committees will serve also as a link between the Auxiliary Air Force and the Indian Territorial Army and assist the Commanding Officers of the Units concerned to recruit civilian personnel. The period of service in the Auxiliary Air Force will normally be five years in the first instance.

5. The period of training will be prescribed in the rules made by the Central Government from time to time and care will be taken to see that the training is so arranged that minimum dislocation of normal civil duties is caused.

6. The composition of the Reserves, the ranks of the persons enrolled and other allied matters will be regulated by rules made by the Central Government and it is intended to build these Reserves gradually". Gaz. of Ind., 1952, Pt. II, S.2, p.177.

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Reserve and Auxiliary Air Forces Act, 1952.

(2) It extends to the whole of India.

(3) This Chapter shall come into force at once, and the remaining provisions shall come into force as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions. (a) It has been extended to the Union Territory of (1) Dadra and Nagar Haveli by Regn. 6 of 1963 (1-7-1965); (2) Pondicherry by Rcn. 7 of 1963 (1-10-1963);

and (3) State of Sikkim S. O. 208 (E)/ 1975 Gaz. of Ind., 16-5-1975. Pt. II, Section 3(ii), Ext., p. 1213. Enforced on 1 -5-1976.' 15th August, 1955, was appointed as the date on which Chapters II and III of the Act and the provisions of Chapters V and VI thereof except in so far as they relate to the Auxiliary Air Force came into force, see S. R. O. 322, D/- 20-8-1955 published in Gaz. of Ind., 1955, Pt. Sec. 4, p. 189; and 15th October, 1955 was appointed as the that on which Chapter IV of the Act and the provisions of Chapters V and VI thereof in so far as they relate to the Auxiliary Air Force came into force, see S.R.O., 395, D/- 15-10-1955, *ibid*, p. 259.

2. Definitions :-

In this Act, unless the context otherwise requires,

(a) "Air Force Reserve" means any of the Air Force Reserves raised and maintained under this Act.

(b) "competent authority" means an air officer or a committee consisting of two or more airofficers appointed under section 3 ;

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

(d) all other words and expressions used herein and defined in the Air Force Act, 1950 and nor hereinbefore defined shall have the meanings respectively assigned to them by that Act.

3. Appointment of competent authority :-

The Central Government may, by notification in the Official Gazette, appoint an air officer or a committee consisting of two or more air officers to perform all or any of the functions of the competent authority under this Act for such area as may be specified in the notification. •

a. Air Officer-in-charge Administration, Air H.Q., appointed to perform all the functions of the Competent Authority under the Act for the whole of India S.R.O. 374, D/- 17-8-1970, Gaz. of Ind., 29-8-1970, Pt. II, S.4, p.558.

CHAPTER 2

REGULAR AIR FORCE RESERVE

4. Constitution of Regular Air Force Reserve :-

The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force Reserve to be designated the Regular Air Force Reserve which shall consist solely

of persons transferred or appointed to it under Section 5 .

5. Recruitment to the Regular Air Force Reserve :-

(1) The competent authority may, by general or special order, transfer to the Regular Air Force Reserve

(a) any officer or airman of the Air Force who under the terms and conditions of his service is liable to serve in any Air Force Reserve if and when constituted;

(b) any officer or airman of the Air Force whose commission or engagement in the Air Force has been terminated before the commencement of this Act and who under the terms of his commission or engagement was liable to serve in any Air Force Reserve if and when constituted

(c) any officer or airman who has served in the Air Force and has retired therefrom; and any officer or airman so transferred shall be deemed to be a member of the said Reserve.

(2) The competent authority may, in such circumstances and subject to such conditions as may be prescribed, by special order, appoint to the Regular Air Force Reserve any member of the Air Defence Reserve or the Auxiliary Air Force raised and maintained under this Act, and where any such member is so appointed, he shall cease to be a member of the Air Defence Reserve or the Auxiliary Air Force, as the case may be, and shall as from the date of such appointment be deemed to be a member of the Regular Air Force Reserve.

(3) The competent authority may, for reasons which in its opinion are sufficient, cancel any order made under sub-section (1) or sub-section (2) and on the cancellation of such order the person in respect of whom the order had been made shall cease to be a member of the Regular Air Force Reserve.

6. Classes of persons in the Regular Air Force Reserve :-

Members of the Regular Air Force Reserve shall be divided into the following classes, namely :

(a) general duties officers, and

(b) ground duties officers, and

(c) airmen,

and every officer shall be entitled on transfer or appointment to the Reserve to hold the same rank as that which he last held in the Air Force, or the Air Defence Reserve or the Auxiliary Air Force, as the case may be, before such transfer or appointment. Section 4 retired and was transferred to the Regular Air Force (1) Where a member of the Indian Air Force Reserve, he still retains his character as a public servant. AIR 1980 SC 522 (525): 1980 Cri LJ 393.

7. Period of service :-

(1) Every member of the Regular Air Force Reserve shall be liable to serve in the Reserve

(a) if he is transferred to the Reserve under sub-section (1) of section 5 , for the period of his Reserve liability; and

(b) if he is appointed to the Reserve under sub-section (2) of section 5 , for the remainder of the period for which he was liable to serve in the Air Defence Reserve or the Auxiliary Air Force, as the case may be : Provided that the competent authority may require any such member to serve in the Reserve for such further period or periods not exceeding in the aggregate five years as it may think fit.

Explanation I. For the purposes of this sub-section, "period of Reserve liability' in relation to any member of the Regular Air Force Reserve means the period for which under the terms and conditions of his service in the Air Force he was liable to serve in any Air Force Reserve if and when constituted

Explanation II. In computing the period of Reserve liability in relation to any member of the Regular Air Force Reserve whose commission or engagement in the Air Force was terminated before the commencement of this Act, the period which has elapsed between such termination and the date of such commencement shall be included.

(2) Notwithstanding anything contained in sub-section (1), no person shall be liable to serve in the Reserve after attaining the prescribed age.

8. Termination of service in the Reserve :-

Every member of the Regular Air Force Reserve shall, on completion of the period of his service therein, cease to be a member of the Reserve.

9. Constitution of Air Defence Reserve :-

The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force Reserve to be designated the Air Defence Reserve which shall consist of persons deemed under the provisions of section 16 to be enrolled therein.

10. Classes of persons in the Air Defence Reserve :-

Members of the Air Defence Reserve shall be divided into the following classes, namely :

- (a) general duties officers;
- (b) ground duties officers; and
- (c) airmen.

11. Obligation to register :-

(1) Every Citizen of India who

(a) holds or has held a public transport pilot's licence ("B" Licence) issued under the Indian Air- craft Rules, 1937, or

(b) has had not less than two hundred hours' experience of solo flying, including not less than thirty landings, or

(c) holds or has held a first class navigator's licence issued under the Indian Aircraft Rules, 1937, or

(d) has had at least four years' aviation experience during which at least six hundred hours shall have been spent in the air, not less than one hundred hours of such experience being experience of navigation "in the air, or

(e) holds or has held a first class radio telegraph operator's licence issued under the Indian Aircraft Rules, 1937, or

(f) holds or has held a radio telephone operator's licence issued under the Indian Aircraft Rules, 1937, or

(g) holds or has held a licence as ground engineer in any of the categories A, B, C, D or X issued under the Indian Aircraft Rules, 1937, or

(h) is or was at any time employed in connection with any aerodrome or in connection with the control and movement of aircraft, in such capacity as may be prescribed, shall within the

prescribed period correctly fill up, or cause to be filled up, to the best of his knowledge and belief the prescribed form, and sign and lodge it with the competent authority nearest to his usual place of residence or business : Provided that nothing contained in this sub-section shall apply

(i) to any person belonging to any of the classes specified in clauses (a) to (f), if he has attained the age of thirty-seven years; or .

(ii) to any person belonging to any of the classes specified in clauses (g) and (h), if he has attained the age of fifty years.

(2) Without prejudice to the provisions contained in sub-section (1), the competent authority may if it is satisfied that the provisions of that sub-section apply to any person, by order in writing, require that person to furnish within such time such particulars as may be specified in the order and such persons shall within the specified time furnish correctly to the best of his knowledge and belief the said particulars to the said authority in such form and manner as may be prescribed.

12. Liability to be called up for inquiry :-

Every person to whom the provisions of section 11 are applicable shall be liable to be called up for inquiry under section 13 ,

(a) if he belongs to any of the classes specified in clauses (a) to (f) of sub-section (1) of section 11 until he has completed his thirty-seventh year, and

(b) if he belongs to any of the classes specified in clauses (g) and (h) of the said sub-section until he has completed his fiftieth year.

13. Calling-up for inquiry :-

The competent authority may cause to be served on any person for the time being liable to be called up for inquiry under section 12 a written notice stating that he is called up for inquiry regarding his fitness for service in the Air Defence Reserve and requiring him to present himself to such person and at such place and at such time as may be specified in the notice and to submit himself to inquiry by the said person.

14. Medical examination :-

Every person called up for inquiry under section 13 shall, if and when required by the competent authority, present himself for examination before such medical officer as may be directed by that authority and, for the purposes of such examination, shall comply

with the directions of the medical officer.

15. Registration of persons considered fit for enrolment :-

If, after such inquiry and medical examination as aforesaid, the competent authority considers a person fit for enrolment in the Air Defence Reserve, it shall inform him accordingly and enter his name and other prescribed particulars in a register maintained in such form and manner as may be prescribed.

16. Calling up for service :-

The competent authority may cause to be served on any person whose name is entered in the register maintained in pursuance of S. 15 a written notice stating that he is called up for service in the Air Defence Reserve and requiring him to present himself at such place and time and to such authority as may be specified in the notice; and the person upon whom the notice is served shall be deemed to be enrolled in the Reserve as from the day so specified.

17. Period of service :-

(1) Every person deemed to be enrolled in the Air Defence Reserve shall be liable for service

(a) if he belongs to any of the classes specified in clauses (a) to (f) of sub-section (1) of section 11 until he has completed his forty-second year;

(b) if he belongs to any of the classes specified in clauses (g) and (h) of the said sub-section, until the

(2) Every such person, on attaining the age specified in sub-section (I), shall cease to be a member of the Air Defence Reserve.

CHAPTER 4

AUXILIARY AIR FORCE

18. Constitution of Auxiliary Air Force :-

(1) The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force to be designated the Auxiliary Air Force

(2) The Central Government may constitute such number of squadrons and units of the Auxiliary Air Force as it thinks fit and may disband or reconstitute any squadron or unit. Section 18 character as a public servant. AIR 1980 SC 522 (1) A member of the Indian Air Force retired and (525) : 1980 Cri LJ 393. was

transferred to the Auxiliary Air Force retains his

19. Classes of persons in the Auxiliary Air force :-

Members of the Auxiliary Air force shall be divided into the following classes, namely :

- (a) general duties officers;
- (b) ground duties officers; and
- (c) airmen.

20. Officers of the Auxiliary Air Force :-

The President may grant to such persons as he thinks fit a commission as an officer in the Auxiliary Air Force with the designation of rank corresponding to that of any commissioned officer in the Air Force.

21. Persons eligible for enrolment :-

Any citizen of India may offer himself for enrolment in the Auxiliary Air Force and may, if he satisfies the prescribed conditions, be so enrolled on such terms as be prescribed.

22. Period of service :-

Every officer and every enrolled person shall, subject to any rules that may be made in this behalf under this Act, be required to serve in the Auxiliary Air Force for a period of five years from the date of his appointment or enrolment but may, after the completion of his period of service, volunteer to serve therein for further periods each of not more than five years' duration.

23. Termination of service :-

The service of any officer or enrolled person in the Auxiliary Air Force may, at any time before the completion of his period of service, be terminated by such authority and under such conditions as may be prescribed.

24. Advisory Committees :-

(1) The Central Government shall, as soon as may be after the commencement of this Act, constitute

- (a) for the whole of India, a Central Advisory Committee;
- (b) for each State, a State Advisory Committee; and
- (c) for every unit of the Auxiliary Air Force, a Unit Advisory Committee.

(2) It shall be the duty of the Central Advisory Committee to advise the Central Government on matters connected with the Auxiliary Air Force generally, of the State Advisory Committee to advise the Central Government on matters connected with the formation of squadrons or units in the State and squadrons or units already stationed in the State.

(3) The duties, powers and procedure of Advisory Committees and in particular the matters in respect of which the Advisory Committees may be called upon to give advice shall be such as may be prescribed.

CHAPTER 5

LIABILITY AND DISCIPLINE OF MEMBERS OF RESERVE AND AUXILIARY AIR FORCES

25. Liability to be called up for service :-

Every member of an Air Force Reserve or the Auxiliary Air Force shall, during the period of his service, be liable to be called up

(a) for training for such period as may be prescribed and for medical examination,

(b) for service in aid of the civil power,

(c) for Air Force service in India or abroad.

26. Application of Air Force Act, 1950 :-

Every member of an Air Force Reserve or the Auxiliary Air Force shall, when called up for training, medical examination or for service under this Act, be subject to the Air Force Act, 1950, and the rules made thereunder in the same manner as a person belonging to the Air Force and holding the same rank is subject to the said Act and rules and shall continue to be so subject until duly released from such training, medical examination or service, as the case may be.

CHAPTER 6

MISCELLANEOUS

27. Reinstatement in civil employ of persons required to perform service under this Act :-

(1) It shall be the duty of every employer by whom a person called up under section 25 is employed to grant him such leave as may be necessary and to reinstate him in his employment on the termination of the period during which he has been so-called up in

an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been so-called up: Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason the reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before him and after making such further enquiry into the matter as may be prescribed, pass an order

(a) exempting the employer from the provisions of this section, or

(b) requiring him to re-employ such person on such terms as that authority thinks suitable, or

(c) requiring him to pay to such person by way of compensation for failure or inability to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period during which he was called under section 25 .

(4) The duty imposed by sub-section (1) upon an employer to grant leave to a person such as is described in that sub-section or to reinstate him in his employment shall attach to an employer who, before such person is actually called up under section 25 terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of an order relating to that

person under section 25 .

28. Preservation of certain rights of persons called up for service :-

When any person called up under section 25 has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, during the period for which he has been so-called up and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.

29. Pay and allowances :-

(1) Every member of an Air Force Reserve or the Auxiliary Air Force shall, during the period of training or active service, receive such pay and allowances as are admissible to an officer or airman, as the case may be, in the corresponding rank, branch or trade of the Air Force.

(2) Where any such member was in any employment immediately before he is called up for training under section 25 , the employer shall, during the period of the training, be liable to pay to him the difference, if any between the pay and allowances which he would have received from the employer if he had not been called up for such training and the pay and allowances which he receives as such member while under training.

(3) If any employer refuses or fails to pay to any such member the difference in pay and allowances as provided in sub-section (2), such difference in pay and allowances may, on application by the member to the prescribed authority, be recovered from the employer in such manner as may be prescribed.

30. Penalties :-

(1) If any person refuses or without lawful excuse (the burden of proving which shall lie upon such person) neglects to comply fully with the requirements of sub-section (1) of section 11 or of any order made under sub-section (2) of that section or with the requirements of section 14 , he shall be punishable with fine which may extend to five hundred rupees.

(2) If any person wilfully fails to comply with any notice issued under section 13 or section 16 he shall be punishable with

imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

31. Service of notice :-

Any notice or order to be served on any person for the purposes of this Act may be sent by post to that person at his last known address or may be served upon him in such other manner as may be prescribed.

32. Competent authority to be public servant :-

For the purposes of this Act every competent authority and where the competent authority consists of a committee of two or more air officers, every member of the committee shall be deemed to be a public servant within the meaning of S.21 of the Indian Penal Code.

33. Power of Central Government to grant exemptions :-

The Central Government may, for special reasons and subject to such conditions as may be prescribed, by order exempt any person from any obligation or liability under this Act or any particular provision thereof.

34. 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 all or any of the following matters, namely :

(a) the composition and strength of any Air Force Reserve;

(b) the circumstances in which and the conditions subject to which any officer or airman may be transferred or appointed to the Regular Air Force Reserve under section 5 ;

(c) the age beyond which persons shall not be liable to serve in the Regular Air force Reserve;

(d) the form and manner in which the particulars required by sub-section (2) of section 11 shall be furnished;

(e) form and manner in which registers shall be maintained in pursuance of section 15 , the particulars to be entered therein, and the correction or revision of such particulars from time to time;

(f) the pay or allowances payable to persons called up for inquiry or

medical examination under this Act;

(g) the terms and conditions subject to which a person may be enrolled as a member of the Auxiliary Air Force;

(h) the authority by which and the conditions subject to which the service of any officer or enrolled person in the Auxiliary Air Force may be terminated;

(i) the constitution and the duties, powers and procedure of Advisory Committees to be constituted under section 24 ;

(j) the period and manner of training of members of any Air Force Reserve and the Auxiliary Air Force;

(k) the manner in which and the conditions subject to which the rank of any member of an Air Force Reserve may be determined;

(l) the constitution of the authority for the purpose of section 27 and the manner in which such authority may conduct any inquiry under this Act;

(m) the authority to which an application under sub-section (3) of section 29 may be made and the manner in which the difference in the pay and allowances may be recovered under that sub-section;

(n) the manner in which any notice or order issued or made under this Act may be served;

(o) the conditions subject to which any person may be exempted from any obligation or liability under this Act or any particular provision thereof:

(p) any other matter which under this Act is to be, or may be prescribed.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) Every rule 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 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.]

[a] See the Reserve and Auxiliary Air Forces Rules, 1953, S.R.O. 175, dated 25-4-1953, published in Gazette of India, 1953. Pt. II, Sec. 4, p. 187.

[b] Substituted by Delegated Legislation Provisions (Amendment) Act (4 of 1986) S.2 Sch. (15-6-86)

35. Amendment of sections 2, 4 and 31, Act XIV of 1950 :-

Repealed by the Repealing and Amending Act, 1957 (36 of 1957), section 2 and Schedule I (17-9-1957).]

36. Repeal of Act 36 of 1939 :-

Repealed by the Repealing and Amending Act, 1957 (36 of 1957), section 2 and Schedule I (17-9-1957).]