

RESERVE FORCES ACT, 1888

4 of 1888

[2nd March, 1888]

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RESERVE FORCES ACT, 1888

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An Act to regulate b [the] Indian Reserve Forces. WHEREAS it is expedient to provide for the Government, discipline and regulation of b [the] Indian Reserve Forces; It is hereby enacted as follows :-

1. Title and commencement :-

(1) This Act may be called The Indian Reserve Forces Act, 1888: and

(2) It shall come into force on such day as the Central Government may, by notification in the Official Gazette, appoint ¹ in this behalf.

1. The Act came into force on the 26th May, 1888-See Gaz.of Ind., 1888, ft. I, page 239. The Act has now been extended to the Union Territories of- (1) Dadra and Nagar Haveli by Regn. 6 of 1963 (1-7-1965); (2) Pondicherry by Regn. 7 of 1963 (1-10-1963); (3) Laccadive, Minicoy and Amindivi Islands by Regn. 8 of 1965 (1-10-1967), . These Islands are now known as Lakshadweep-See Act 34 of 1973, section 3(1-11-1973).

2. Division of Reserve Forces into Regular and

Supplementary Reserves :-

The Indian Reserve Forces shall consist of the Regular Reserve and the Supplementary Reserve.]

3. Locality of service of Reserves :-

¹[*] A person belonging to the ¹[Indian Reserve Forces] shall be liable to serve beyond the limits of ³[India] as well as within those limits. ⁴ [* * * * *]

1. The figure and brackets "(1)" were repealed by the Indian Reserve Forces (Amendment) Act, 1931 (12 of 1931). section 3.

3. Substituted for the words and letters "the territories comprised within Part A States and Part C States by 2 A.L.O., 1956 (1-11-1956).

4. Sub-section (2) was repealed by Act 12 of 1931, section 3.

4. Power to make rules for regulation of Reserve Forces :-

¹[(1)] The Central Government ."- may make rules and orders for the Government, discipline and regulation of the Indian Reserve Forces.

¹ [(2) Every rule and every order made under sub-section (1) 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 order or both Houses agree that the rule or order should not be made, the rule or 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 rule or order.]

1. Section 4 renumbered as sub-section (1) and sub-section (2) inserted by the Delegated Legislation Provisions (Amendment) Act. 1983 (20 of 1983), S. 2, Sch. (15-3-1984).

5. Liability of Reserve Forces to military law :-

Subject to ¹[* * *] such rules and orders as may be made under section 4 , a person belonging to the Indian Reserve Forces shall, as an office, or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to the ¹ [the Regular Army].

1. The words "the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to" were repealed by the Indian Reserve Forces (Amendment) Act, 1931 (12 of 1931), section 4.

6. Punishment of certain offences by persons belonging to Reserve Forces :-

(1) If a person belonging to the Indian Reserve Forces-

(a) when required by or in pursuance of any rule or order under this Act to attend at any place, fails without reasonable excuse to attend in accordance with such requirement, or

(b) fails without reasonable excuse to comply with any such rule or order, or

(c) fraudulently obtains any pay or other sum contrary to any such rule or order, he shall be liable-

(i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the [Army Act, 1950] empowered to award, or

(ii) on conviction by ¹ [a Presidency Magistrate or] a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend to any place, a certificate purporting to be signed by an officer appointed by such rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

1. Inserted by the Indian Reserve Forces (Amendment) Act, 1931 (12 of 1931), section 5.

7. Reinstatement in civil employ of persons belonging to

Reserve Forces on termination of period of training, muster or army service :-

(1) If a person belonging to the Indian Reserve Forces is, during the period of his employment under an employer, called up for training, muster or army service in pursuance of his liability under any rule or order under this Act, it shall be the duty of every such employer to reinstate the person in his employment on the termination of the period of his training, muster or army service in an occupation and under conditions not less favourable to him than those which, would have been applicable to him had his employment not been so interrupted : Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the authority prescribed in this behalf by rules made under this Act, and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed in the said rules, pass an order-

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

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

(c) requiring the employer 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 (i); 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 of his training, muster or army service.

(4) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually called up for training, muster or army service, 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 orders calling him up for training, muster or army service under this Act.]

"Reservists of the Indian Army are liable to undergo periodical military training and also to be called up for service in the event of an emergency. During the period of their reserve service, they get only a nominal retaining fee of Rs. 10 per month except when called up for training or active service. This small retaining fee is hardly sufficient for the reservist to maintain himself or his family and it becomes essential for him to take up some civil employment. Although many employers have treated their reservists-employees fairly, experience has shown that there are some who are not always prepared to reinstate the reservists in their employment after the termination of the periodical military training or active service for which the reservists have a liability under the Act. Soldiers are, therefore, reluctant to be transferred to the Reserve; and when actually so transferred they find it great hardship to discharge their obligations under the Indian Reserve Forces Act. There is no provision in the Act to afford necessary protection to the Reservists in civil employment. It is, therefore, proposed to amend the Act so as to impose a statutory liability on the employers to afford necessary protection to members of the Reserve Forces in civil employment. [Sections 7 and 8 seek] to achieve this purpose."-S.O.R., Gaz. of Ind., 1957, Extra, Pt. II.S. 2, page 882.