

SEAWARD ARTILLERY PRACTICE ACT, 1949

8 of 1949

[17th February, 1949]

CONTENTS

1. Short title, extent and application
2. Interpretation
3. Power of Central Government to authorise seaward artillery practice
- 3A. Power to delegate
4. Powers exercisable for purposes of seaward artillery practice
5. Compensation
6. Method of assessing compensation
7. Offences
8. Protection of action taken under this Act
9. Power to make rules

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STATEMENT OF OBJECTS AND REASONS "To maintain the efficiency of the Armed Forces it is necessary in India, as in every other country to hold artillery practice and coastal firing towards the sea. In the Manoeuvres, Field Firing and Artillery Practice Act, 1938, however provision exists only for clearing ranges for field firing and artillery practice on land, but no provision exists in that Act or any other law under which steps could be taken to clear ranges for similar practice towards the sea. During the last war this lacuna was filled by the promulgation of R.50BB of the Defence of India Rules. That Rules, however, terminated on the lapse of the Defence of India Act. It has, therefore, become necessary to introduce legislation for this purpose. In the legislation provision has also been made as in the case of the Manoeuvres, Field Firing and Artillery Practice Act. 1938, for the payment of compensation to persons whose rights may be affected by reason of the exercise of powers sought to be given by this Act."- Gaz. of Ind., 1949, Pt. V, p. 17. Amending Act 3 of 1973.- Under the Seaward Artillery

Practice Act, 1949, Seaward artillery practice can be carried out over any area in a State if a notification authorising the same is issued by the State Government. No such notification can be issued by a State Government until the expiry of two months from the date of first publication of a notice of its intention to do so in the Official Gazette. In the interests of general defence preparedness, it is necessary for the naval authorities to be able to carry out seaward artillery practice at a much shorter notice. Further, as Seaward artillery practice is to be carried out by the naval authorities, it would avoid delay if the power to authorise the same is vested in the Central Government with a further power to delegate the same to State Governments if considered necessary. It is, therefore, proposed to amend the Act to vest the power to authorise seaward artillery practice in the Central Government. to reduce the minimum period of notice to fourteen days and to empower the Central Government to delegate its power to issue notifications authorising seaward artillery practice to State Governments. The State Governments having a coastline have been consulted in regard to these proposals and they have generally agreed with the same. 2. The Bill seeks to amend the Seaward Artillery Practice Act, 1949 to give effect to the aforementioned proposals.- Gaz of India, 4-12-1972, Pt.II, S.2, Ext., p. 1220.

1. Short title, extent and application :-

(1) This Act may be called The Seaward Artillery Practice Act, 1949.

(2) It extends to all the ¹[States] [****]¹ which have a sea coast and applies also to, and to persons on any vessel which is registered in India or which belongs to any person domiciled in India, wherever it may be.

1. The words "and Acceding States of India" were omitted by A.O., 1950(26-1-1950).

2. Interpretation :-

(1) In this Act, unless there is anything repugnant in the subject or context,-

(a) "notified area" means any part of the area of the sea and the shore adjoining that area which may be specified in this behalf by notification under section 3 ;

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

(c) "seaward artillery practice" means artillery practice or coastal firing, towards the sea, whether within or beyond the territorial waters and includes air armament practice;

(d) "vessel" includes any ship, boat, country craft or any other description of vessel.

1 [(2) * * * *]

1. Sub-section (2) was omitted by 3A.L.O., 1956 (w.r.e.f. 1-11-1956).

3. Power of Central Government to authorise seaward artillery practice :-

(1) The Central Government may, by notification in the Official Gazette, authorise the carrying out of seaward artillery practice over such area and during such period or periods as may be specified in the notification: Provided that there shall be an interval or at least fourteen days between the date of publication of such notification in the Official Gazette and the date of carrying out of seaward artillery practice.

(2) The Central Government shall, as soon as may be, after the publication of a notification under sub-section (1), cause the substance thereof to be published-

(a) in some newspaper circulating in, and in the language commonly understood in, the area specified in the notification; and

(b) in such other means may be prescribed.

(3) If any question arises whether the substance of a notification under sub-section (1) was published as required by sub-section (2), a certificate by the Collector of the district in which the notified area is situate that the substance of the notification was so published, shall be conclusive.

3A. Power to delegate :-

The Central Government may by notification in the Official Gazette, direct that the power to issue notifications under section 3 shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by such State Government as may be specified therein.]

4. Powers exercisable for purposes of seaward artillery practice :-

(1) After a notification under sub-section (1) of section 3 has been issued, such persons as are included in the forces engaged in seaward artillery practice may, within the notified area and during the period or periods specified in the notification,-

(a) give directions prohibiting or restricting the use of the notified area or any part thereof including the use of any part of the area of the sea by any vessel, and take such further measures as may be necessary to ensure that no unauthorised person enters, passes over or remains in the notified area or part thereof, as the case may be, during such practice: and

(b) carry out seaward artillery practice with lethal missiles.

(2) The Officer Commanding the forces engaged in any such practice may declare any portion of the notified area to be a danger zone, and thereupon the Collector shall, on application made to him by the Officer Commanding the forces engaged in the practice, prohibit the entry into and secure, with the assistance of the naval or military authorities concerned, the removal from such danger zone of any person, property or vessel during the times when the discharge of lethal missiles is taking place or there is danger to life or property.

5. Compensation :-

Where by reason of a notification issued under section 3 the carrying out of seaward artillery practice is authorised in any notified area, compensation shall be payable for any damage to person or property or interference with rights or privileges arising from such practice including expenses reasonably incurred in protecting person, property, rights or privileges.

6. Method of assessing compensation :-

(1) For the purpose of determining the amount of any compensation payable under section 5 , the Collector of the district in which any notified area is situated shall depute one or more Revenue Officers to accompany the forces engaged in the practice.

(2) The Revenue Officer so deputed shall consider all claims for compensation under section 5 and determine, on local investigation and after affording the claimant an opportunity of being heard, the amount of compensation, if any, which shall be awarded in each case; and shall disburse on the spot to the claimant compensation so determined as payable.

(3) Compensation payable under sub-section (2) shall include compensation for the removal from any portion of a notified area declared to be a danger zone of any person, properly or vessel and for any damage sustained in the course of any such removal. The compensation for removal will be disbursed on the spot at not less than the minimum prescribed rates before the removal is enforced.

(4) Any claimant dissatisfied with the refusal of the Revenue Officer to award him compensation or with the amount of compensation awarded to him by the Revenue Officer may, at any time within one month of the communication to him of the decision of the Revenue Officer, prefer an appeal to the Collector against the decision.

(5) The decision of the Collector on such appeal shall be final and no suit shall lie in any Civil Court in respect of any matter decided by the Collector under this section.

(6) No fee shall be charged in connection with any claim, notice, appeal, application or document filed before the Revenue Officer or the Collector under this section,

7. Offences :-

If within a notified area and during any period specified in a notification issued under sub-section (1) of section 3 , any person-

(a) wilfully obstructs or interferes with the carrying out of seaward artillery practice, or

(b) without, due authority enters or remains in any camp, or

(c) without, due authority enters or remains in any area declared to be a danger zone at a time when entry thereto is prohibited, or

(d) without due authority interferes with any flag or mark or target or buoy or any apparatus used for the purposes of seaward artillery practice,

shall be punishable with fine which may extend to twenty rupees or with imprisonment which may extend to fifteen days, or with both.

8. Protection of action taken under this Act :-

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) Except as otherwise provided in this Act, no suit or other legal

proceeding shall lie against the Central Government or the ¹ [State Government] in respect of any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

1. Substituted for the words "Provincial Government" by A.L.O., 1950 (26-1 -1950).

9. Power to make rules :-

(1) The Central Government may, by notification in the Official Gazette, make rules for giving effect to the provisions of this Act and different rules may be made for Different States or for different areas thereof.

(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 manner in which the substance of a notification under section 3 may be published;

(b) regulating the use under this Act of the notified area for seaward artillery practice in such manner as to secure the public against danger, and to enable the practice to be carried out with the minimum inconvenience to the inhabitants of the area affected:

(c) the minimum rates at which compensation shall be payable under sub-section (3) of section 6 , and generally regarding the making of claims for compensation, the pocedure to be followed by the authorities granting compensation, the expeditious settlement of claims and filing of appeals from original awards of compensation;

(d) the principles to be followed in assessing the amount of compensation to be awarded under the Act;

(e) any other matter which is required to be, or may be, prescribed.

(3) 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 aforesaid, both Houses agree in making any codification 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.]