

## **TERRITORIAL ARMY ACT, 1948**

**56 of 1948**

**[10th September, 1948]**

### CONTENTS

1. Short title, extent and application
2. Definitions
3. Constitution of the Territorial Army
4. Personnel of the Territorial Army
5. Officers
6. Persons eligible for enrolment
- 6 A . Liability of certain persons for compulsory service in the Territorial Army
7. Liability for military service
- 7A. Reinstatement in civil employ of persons required to perform military service
- 7B. Preservation of certain rights of persons required to perform military service
8. Discharge
9. Application of the Army Act, 1950
10. Summary trial and punishment
- 10A. Punishment for failure to lodge forms duly filled up, etc
11. Jurisdiction to try offences
12. Presumption as to certain documents
13. Persons subject to this Act to be deemed part of regular forces for certain purposes
14. Power to make rules
15. Repeal of Act 48 of 1920

## **TERRITORIAL ARMY ACT, 1948**

**56 of 1948**

**[10th September, 1948]**

STATEMENT OF OBJECTS AND REASONS This Bill seeks to provide the legal basis for raising the Territorial Army the proposals regarding which were announced in Parliament on the 8th Apr. 1948. Owing to the constitutional changes old Territorial Force Act, 1920 is no longer suitable for this purpose. For example, the Act of 1920 makes members of the Force subject to the British Army Act. The present Bill merely lays down the broad principles on which the

Territorial Army is to be raised leaving all administrative details, etc., to be provided for in rules and regulations. The role of the force will be- (a) to provide a second line to, and a source of reinforcement for, the regular army; (b) to assist in internal defence duties in a national emergency; (c) to be responsible for anti-aircraft and coastal defence; and (d) to give the youth of India an opportunity of training themselves to defend their country. With the passage of this Bill, the Indian Territorial Force Act, 1920 will lapse".-Gaz. of Ind., 1948, Part V, page 619. Amending Act 33 of 1952.- The Territorial Army Act, 1948, does not at present contain any provision affording protection in civil employment to those who join the Territorial Army, with the result that some private employers have found it possible to refuse to allow their employees to retain a lien on their appointments while on duty with the Territorial Army. These difficulties were foreseen when the Territorial Army Act was enacted, but it was hoped at the time that employers would generally co-operate with Government in this national effort and voluntarily ensure that no person suffers either financially or otherwise by joining the Territorial Army. 2. Although many employers have treated their employees fairly even generously, in this matter, experience has shown that there are many others who are not willing to act likewise. It has therefore become expedient to amend the Territorial Army Act to impose' a statutory liability on the employers to afford necessary protection in civil employment to members of the Territorial Army and the proposed legislation seeks to achieve this purpose. - Gaz. of Ind., 23-2-1952, Pt. II, S. 2, P. 72.

### **1. Short title, extent and application :-**

(1) This Act may be called THE TERRITORIAL ARMY ACT, 1948.

(2) It extends to the whole of India<sup>1</sup> [\* \* \*] and applies to all classes of persons in the Territorial Army, wherever they may be.

1. The words "except the State of Hyderabad" inserted by A.L.O. 1950, were omitted by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. [1-4-1951].

### **2. Definitions :-**

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

(a) "enrolled" means enrolled in the Territorial Army under the provisions of this Act;

(b) "officer" means an officer of any of the two classes specified in section 5; NOTE.- Officers in the Territorial Army belong to two classes, (a) officers holding commissions in the Territorial Army granted by the President, and (b) junior commissioned officers holding commissions in the Territorial Army granted by the President.

(c) "non-commissioned officer" means a person holding a non-commissioned rank in the Territorial Army, and includes an acting non-commissioned officer;

(d) "prescribed" means prescribed by rules made under this Act;  
<sup>1</sup>(dd) "public utility service" means any undertaking which supplies power, light, gas or water to the public, or carries on a public transport, or maintains any system of public conservancy or sanitation and which is declared by notification in the Official Gazette, by the Central Government to be a public utility service to which this Act applies: Provided that no such notification shall be issued unless the Central Government is satisfied that, having regard to the needs of the Territorial Army, the persons employed in any such public utility service should, in the public interest, be made compulsorily liable for service in that Army under this Act.]

(e) the expression <sup>2</sup>["Regular Army"] means officers and other ranks who, by their Commission, terms of enrolment or otherwise, are liable to render continuously for a term military service under <sup>3</sup>[Arms Act, 1950]; and

(f) all words and expressions used herein and defined in <sup>4</sup> [Arms Act, 1950], and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Act.

1. Inserted by the Territorial Army (Amendment) Act, 1956 (92 of 1956), S. 2 [28-12-1956].

2. Substituted for the words "Regular Forces" by A.L.O., 1950 [26-1-1950].

3. Substituted for the words "the Indian Army Act, 1911" by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch [1-4-1951].

4. Substituted for the words "the Indian Army Act, 1911" by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. [1-4-1951].

### **3. Constitution of the Territorial Army :-**

(1) There shall be raised and maintained in the manner

hereinafter provided an army to be designated the Territorial Army.

(2) The Central Government may constitute such number of units of the Territorial Army as it thinks fit and may disband or reconstitute any unit so constituted.

#### **4. Personnel of the Territorial Army :-**

There shall be the following classes of persons in the Territorial Army, namely,-

(a) officers; and

(b) enrolled persons.

#### **5. Officers :-**

Officers in the Territorial Army shall be of the two following classes, namely,-

(a) officers holding commissions in the Territorial Army granted by the President with designations of rank corresponding to those of Indian commissioned officers <sup>1</sup>[of the Regular Army]; and

(b) junior commissioned officers holding commissions in the Territorial Army granted by the President with designations of rank corresponding to those of <sup>2</sup> [junior commissioned officers of the Regular Army].

1. Inserted by A.L.O., 1950 [26-1-1950].

2. Substituted for the words "Viceroy's commissioned officers", Inserted by A.L.O., 1950 [26-1-1950].

#### **6. Persons eligible for enrolment :-**

<sup>1</sup> [Any person who is a citizen of India] may offer himself for enrolment in the Territorial Army, and may, if he satisfies the prescribed conditions, be enrolled for such period and subject to such conditions as may be prescribed.

1. Substituted for the words "Any person domiciled in India" by A.L.O., 1950 [26-1-1950].

#### **6A. Liability of certain persons for compulsory service in the Territorial Army :-**

(1) Without prejudice to the provision contained in S. 6, every person employed under the Government or in a public utility service who has attained the age of twenty years but has not completed the age of forty years shall, subject to the other provisions contained in this section and subject to such rules as

may be made in this behalf, be liable, when so required to do, to perform service in the Territorial Army.

(2) Where it appears to the prescribed authority that, having regard to the strength of the Territorial Army or of any unit thereof in any area or place or, having regard to the exigencies of service in the Territorial Army, it is necessary that persons compulsorily liable to perform service in the Territorial Army under sub-section (1) should be called upon for such service, the prescribed authority may call upon such number of persons as he thinks fit for the purpose of performing service in the Territorial Army.

(3) In requisitioning the services of any persons under sub-section (2), the prescribed authority shall have regard to the age, physical fitness, qualifications and experience of the persons to be called upon for service and the nature of the work previously performed by them while employed under the Government or in the public utility service, and the work to be performed by them in the Territorial Army.

(4) Every person liable to perform service under sub-section (1), shall if so required by the prescribed authority, be bound to fill up such forms as may be prescribed and sign and lodge them with the prescribed authority within such time as may be specified in the requisition.

(5) The prescribed authority may require any person in charge of the management of a public utility service to furnish within such time as may be specified in the requisition such particulars as may be prescribed with respect to persons employed under him, who may be liable to perform service under sub-section (1).

(6) Any person whose services are requisitioned under this section may be required to join the Territorial Army as an officer or as an enrolled person according to the rules made in this behalf by the Central Government, and where any person has so joined the Territorial Army, he shall be entitled to the same rights and privileges and be subject to the same liabilities as an officer or enrolled person under the provisions of this Act. Explanation.- For the purposes of this section, the expression "person employed under the Government or in a public utility service" shall not include- (a) a woman; (b) a member of the regular Army, the Navy or the Air Force or a member of any Reserve Force; (c) a person who is not a citizen of India; (d) a person employed under the

Government in any country or place outside India for so long as he is so employed; and (e) any other persons as may be exempted from the operation of this Act by the Central Government, by notification in the Official Gazette, on the ground that having regard to the nature of the service performed by such persons or to the exigencies of the service in which they are employed, it is, in the opinion of the Central Government expedient in the public interest that they should not be liable to perform service under this Act.]

## **7. Liability for military service :-**

(1) No officer or enrolled person shall be required to perform military service beyond the limits of India save under a general or special order of the Central Government.

(2) Subject to the provisions of sub-section (1), every officer or enrolled person shall, subject to such conditions as may be, prescribed, be bound to serve in any unit of the Territorial Army to which he is for the time being attached, and shall be subject to all the rules made under this Act in relation to such unit,

(3) Every officer or enrolled person shall be liable to perform military service,-

(a) when called out in the prescribed manner to act in support of the civil power or to provide essential guards;

(b) when embodied in the prescribed manner for training or for supporting or supplementing the regular forces; and

(c) when attached to any regular forces either at his own request or under the prescribed conditions,

## **7A. Reinstatement in civil employ of persons required to perform military service :-**

(1) It shall be the duty of every employer by whom a person who is required to perform military service under section 7 was employed to reinstate him in his employment on the termination of the military 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 prescribed authority 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, 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 he 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 his military service.

(4) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as described in that sub-section, shall attach to an employer who, before such person is actually required to perform military service under section 7, 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 requiring him to perform military service under this Act.]

**7B. Preservation of certain rights of persons required to perform military service :-**

When any person required to perform military service under S. 7 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, so long as he is engaged in military service 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.]

### **8. Discharge :-**

Every person enrolled under this Act shall be entitled to receive his discharge from the Territorial Army on the expiration of the period for which he was enrolled and any such person may, prior to the expiration of that period, be discharged from the said army by such authority and subject to such conditions as may be prescribed: Provided that no enrolled person who is for the time being engaged in military service under the provisions of this Act, shall be entitled to receive his discharge before the termination of such service.

### **9. Application of the Army Act, 1950 :-**

(1) Every officer, when doing duty as such officer, and every enrolled person when called out or embodied or attached to <sup>1</sup>[the Regular Army], shall, subject to such adaptations and modifications as may be made therein by the Central Government by notification in the Official Gazette, be ' subject to the provisions of <sup>2</sup>[Arms Act, 1950], and the rules or regulations made thereunder in the same manner and to the same extent as if such officer or enrolled person held the same rank in the Regular Army as he holds for the time being in the Territorial Army.

(2) When an offence punishable under <sup>2</sup> [Arms Act, 1950], has been committed by any person whilst subject to that Act under the provisions of sub-section (1) such person may be taken into and kept in military custody and tried and punished for such offence as aforesaid in like manner as he might have been taken into and kept in military custody, tried and punished if he had continued to be so subject.

1. Substituted for the words "any regular forces" by A.L.O., 1950 [26-1-1950].

2. Substituted for the words "the Indian Army Act, 1911" by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. [1-4-1951].

### **10. Summary trial and punishment :-**

In addition to, or in substitution for, any punishment or

punishments to which he may be liable under <sup>1</sup> [Arms Act, 1950], any enrolled person may be punished either by a criminal court or summarily by order of the prescribed authority for any offence under that Act or for the contravention of any of provisions of this Act or of any rules made thereunder with fine which may extend to one hundred rupees to be recovered in such manner and by such authority as may be prescribed: Provided that no fine shall be summarily inflicted by order of the prescribed authority in any case in which the accused claims to be tried by a criminal court.

1. Substituted for the words "the Indian Army Act, 1911" by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. [1-4-1951].

**10A. Punishment for failure to lodge forms duly filled up, etc :-**

If any person fails without sufficient cause-

(a) to comply with any requisition under sub-section (4) or sub-section (5) of section 6A , or

(b) to report himself for service when so required to do by the prescribed authority under sub-section (2) of that section, or

(c) to submit himself to medical or other examination when so called upon to do by the prescribed authority under rules made under this Act. he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.]

**11. Jurisdiction to try offences :-**

No court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence made punishable by or under this Act.

**12. Presumption as to certain documents :-**

Where an enrolled person is required by or in pursuance of any rule made under this Act to attend at any place, a certificate purporting to be signed by the prescribed officer 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.

**13. Persons subject to this Act to be deemed part of regular forces for certain purposes :-**

For the purposes of sections 128, S.130 of the Code of Criminal

Procedure, 1898 and S.131 of the Code of Criminal Procedure, 1898, all officers, non-commissioned officers and other enrolled persons who have been attached to a unit shall be deemed to be officers, non-commissioned officers and soldiers respectively of the <sup>1</sup> [Regular Army].

1. Substituted for the words "regular forces" by A.L.O., 1950 [26-1-1950].

#### **14. Power to make rules :-**

(1) The Central Government may make rules" to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may-

<sup>1</sup>[(a) prescribe the form under sub-section (4) of section 6A , the particulars that should be furnished therein and the authority with which and the period within which, the form should be lodged;

(aa) prescribe the procedure for requiring persons liable for compulsory service in the Territorial Army to be medically or otherwise examined with a view to determining whether they satisfy the conditions imposed under this Act;]

<sup>2</sup>[(aaa) prescribe the manner in which, and the period for which and the conditions subject to which any person may be enrolled under this Act <sup>3</sup>[or may be required to perform compulsory service in the Territorial Army];

(b) prescribe the manner in which and the conditions subject to which officers and enrolled persons may be called out for service, or embodied for training or for supporting or for supplementing <sup>4</sup>[the Regular Army] or attached to <sup>5</sup>[the Regular Army];

(c) prescribe preliminary and periodical military training compulsory and voluntary, for any enrolled person and provide for the embodiment of any unit for that purpose-

(d) define the manner in which and the conditions under which any enrolled person may be excused from training;

<sup>6</sup>[(dd) specify the authority for the purpose of the proviso to sub-section (1) of section 7A and the manner in which any inquiry may be held by him; (ddd) define the rights under section 7B ;]

(e) prescribe the authorities by which and the conditions subject to which enrolled persons may be discharged under section 8 ' 1

(f) prescribe the authorities by which offences Under this Act may be punished and the fine inflicted may be recovered;

(g) prescribe the officers by whom certificates may be signed under section 12 ;

(h) generally provide for any other matter which under this Act is to be or may be prescribed.

**1** [(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, 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.]

1. Inserted by the Territorial Army (Amendment) Act, 1956 (92 of 1956), S. 5 [28-12- 1956].

2. Clause (a) was re-lettered as (aaa), Inserted by the Territorial Army (Amendment) Act, 1956 (92 of 1956), S. 5 [28-12- 1956].

3. Inserted, Clause (a) was re-lettered as (aaa), Inserted by the Territorial Army (Amendment) Act, 1956 (92 of 1956), S. 5 [28-12- 1956]

4. Substituted for the words "the regular forces" by A.L.O., 1950 [26-1-1950].

5. Substituted for the words "any regular forces", "the regular forces" by A.L.O., 1950 [26-1-1950].

6. Inserted by the Territorial Army (Amendment) Act, 1952 (33 of 1952), S. 3 [14-3- 1952].

### **15. Repeal of Act 48 of 1920 :-**

Repealed by the Repealing and Amending Act, 1950 (35 of 1950), S. 2 and Sch.]