

TOLLS (ARMY AND AIR FORCE) ACT, 1901

2 of 1901

[22nd February, 1901]

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SCHEDULE 1 :- THE SCHEDULE

TOLLS (ARMY AND AIR FORCE) ACT, 1901

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STATEMENT OF OBJECTS AND REASONS "S.143 of the Army Act (44 and 45 Vict., C. 58) exempts certain officers, soldiers and other persons and certain animals, baggage and carriages belonging or attached to the Army. from the payment of certain tolls, and the provision is applicable to India in common with the rest of Her Majesty's dominions. In the Indian Statute-book how- ever, there are several enactments on the same subject: and these while they provide for exemption from the payment of tolls of the classes referred to in the Army Act, do so in favour of persons more or less different from those indicated in that Act. More- over. there are some Acts of the Indian Legislatures which authorize the levy of tolls of the same classes as those described in the English Statute, but which either con- tain no exempting clauses at all or merely contain clauses empowering the Executive to allow exemptions. In these circumstances, it has been decided to legislate. In the case of those Indian enactments which contain lists of exempted persons and property, legislation is necessary in order to remove the conflict

which at present exists between them and the Army Act. The latter would of course prevail if the conflict were brought to the notice of the Courts but. so long as the Indian enactments remain as they now are, it is probable that full effect may not always in practice be given to the Army Act. In the case, too of the remaining enactments of the Indian Legislatures above mentioned, it is not unlikely that the provisions of S. 143. Army Act may be overlooked tolls being levied under the local law in cases in which their levy is in reality prohibited by Parliament. The present Bill reproduces S. 143, Army Act, except sub-section (2), which does not apply to India and amplifies its provisions so as to cover certain additional exemptions all inconsistent provisions to be found in the Indian Statute book being at the same time repealed. S.22 of the Councils Act, 1861. prevents the re- peal of S. 143, Army Act by the GovernorGeneral's Legislative Council, but it is be- lieved that there is nothing to prevent that Council from re-enacting the section, and in doing so, extending the list of persons and property to be exempted from payment of tolls. The list now given in the Bills is a provisional one only. It requires careful consideration, and attention is, therefore. specially invited to its details....."-Gaz. of Ind., 1899, Part V. page 175.

1. Short title, extent and commencement :-

(1) This Act may be called the INDIAN TOLLS¹[(ARMY AND AIR FORCE)] ACT, 1901.

²[(2) It extends to the whole of India ³ [* * * *].]

(3) It shall come into force on the first day of April, 1901.

1. Substituted for the brackets and word "(Army)" by the Indian Tolls (Army) Amendment Act, 1942 (14 of 1942), S. 2 (30-3-1942).

2. Substituted for the former sub-section by A.L.O., 1950.

3. The words "except Part B States" were omitted by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Schedule (1-4-1951).

2. Definitions :-

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

(a) the expression "authorised followers" means persons other than officers, soldiers or airmen, who are employed by, or air in the service of, the Forces or Corps concerned, or are in the service of

any officer, soldier or airman of such Forces or Corps;

(b) "carriage" means a vehicle for carriage or haulage other than one specially constructed for use on rails;

(c) "ferry" includes every bridge and other thing which is a ferry within the meaning of any enactment authorising the levy of tolls on ferries, but does not include any ferry or other thing which is included in the definition of "railway" in S.3 of the Indian Railways Act, 1890;

¹[(d) the expression "the regular forces" means "the regular Army" as defined in clause (xxi) of Section 3 of the Army Act, 1950, and includes the "Air Force" as defined in clause (iv) of S.4 of the Air Force Act, 1950.]

(e) "horse" includes a mule and any beast of whatever description which is used for burden or draught or for carrying persons;

(f) the expression "Irregular Corps" means any force (other than ²[the Regular Forces or] ³[the Territorial Army or the National Cadet Corps]) raised and maintained in India under the authority of the Central Government, ⁴[* * *] or any other force which may be notified in this behalf by order published in the Official Gazette;

(g) the expression "Indian Reserve Forces" means the forces constituted by the Indian Reserve Forces Act, 1888 and includes officers belonging to the Army in India-Reserve of Officers or to the ⁵[Regular Reserve of Officers and members of ⁶[* * *] the Indian Air Force Volunteer Reserve when subject to military or air force law, as the case may be;

(h) "landing-place" includes a pier, wharf, quay, jetty and a stage, whether fixed or floating;

(i) "public authority" means the Central Government ⁷[* * *] or a State Government or a local authority; and, so far as regards tolls levied by a railway company under S.4 of the Indian Guaranteed Railways Act, 1879⁸, or S.51 of the Indian Railways Act, 1890, includes such a railway company; and

(j) "tolls" includes duties, dues, rates, fees and charges, but does not include customs duties levied under the Indian Tariff Act, 1934, octroi duties or town duties on the import of goods, or fares paid for the conveyance of passengers on a tramway.]

1. Substituted for the former clause by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. (1-4-1951).
2. Inserted by A.L.O., 1950.
3. Substituted for the words "the Auxiliary Force (India) or the Indian Territorial Force" by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. (1-4-1951).
4. The words "or of the Crown Representative" were omitted by A.C.A.O., 1948.
5. Substituted for "Indian Regular Reserve of Officers" by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. (1-4-1951).
6. The words "the Royal Air Force Volunteer Reserve and" were omitted by A.L.O., 1950.
7. The words "or the Federal Railway Authority" were omitted by the A.C.A.O., 1948.
8. (1879) 42 and 43 Vict" C. 41. In its application to India, this Act is repealed by the British Statutes (Application to India) Repeal Act, 1960 (57 of 1960), (26-12-1960).

3. Exemptions from tolls :-

The following persons and property, name- ly:-

¹[(a) all officers, soldiers and airmen of-

(i) ²[the Regular Forces.]

(ii) any Irregular Corps, ³[*]

³[* * *]

(b) all members of ⁵[the Territorial Army or of the National Cadet Corps.] when on duty or when proceeding to or returning from duty,]

(c) all officers, soldiers and airmen of the Indian Reserve Forces when pro- ceeding from their place of residence on being called out for service, training, or muster or when proceeding back to their place of residence after such service, training or muster,

(d) all authorized followers of-

(i) ²[the Regular Forces.]

⁷[(ii) the Territorial Army or the National Cadet Corps.]

(iii) any Irregular Corps, ⁸[*]

⁶[* * *]

(e) all members of the families of officers, soldiers, airmen or authorized followers of-

(i) ²[the Regular Forces,] or

(ii) any Irregular Corps- when accompanying any body of troops, or any officer, soldier, airman or authorized follower thereof on duty or on the march,

(f) all prisoners under military or air force escort,

(g) the carriages, horses and baggage, and the persons (if any) employed in driving the carriages or in carrying the baggage, of any persons exempted under any of the foregoing clauses, when such carriages, horses, baggage, or persons accompanying the persons so exempted under the circumstances mentioned in those clauses respectively,]

¹¹[(h)] all carriages and horses belonging to government or employed ¹²[in the Indian] military ¹³[or air-force] service and all persons in charge of or accompanying the same, when conveying any such persons as herein- before in this section mentioned or when conveying baggage or stores. or when returning, unladen from conveying such persons, baggage or stores;

⁷[(i)] all carriages and horses when moving under the orders of military ⁹[or air-force] authority for the purpose of being employed ⁸[in the Indian military] ⁹[or air force] service;

⁷[(j)] all animals accompanying any body of troops which are intended to be slaughtered for food or kept for any purpose connected with the provisioning of such troops, and

⁷[(k)] all persons in charge of any carriage, horse or animal exempted under any of the foregoing clauses when accompanying the same under the circumstances mentioned in those clauses respectively, shall be exempted from payment of any tolls-

(i) on embarking or disembarking, or on being shipped or landed, from or upon any landing-place, or

(ii) in passing along or over any turnpike or other road or bridge, or

(iii) on being carried by means of any ferry, otherwise demandable by virtue of any Act, Ordinance, Regulation, order or direction of any legislature or other public authority in ²⁰[India] : Provided that nothing in this section shall exempt any boats, barges or other vessels employed in conveying the said persons or property along

any canal from payment of tolls in like manner as other boats, barges and vessels.

21 [Explanation.- The persons or property exempted under clauses (d), (e), (g) and (j) shall be deemed to accompany the Forces, troops, persons or property concerned, when the move of the former is the direct result of, or is connected with the move of the latter, irrespective of the interval of space and time between the two moves.]

1. Clauses (a) to (g) were substituted for the original clause (a) to (h) by the Indian Tolls (Army) Amendment Act, 1942 (14 of 1942). S. 4.

2. Substituted for the words "His Majesty's Regular Forces" by A.L.O., 1950.

3. The word 'or' in sub-clause (ii) and the whole of sub-clause (iii) were omitted by 2 A.L.O., 1956.

5. Substituted for the words "the Auxiliary Force (India) or of the Indian Territorial Force" by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. (1-4- 1951).

7. Substituted for the former sub-clause (ii), the Indian Territorial Force" by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. (1-4- 1951) .

8. The word 'or' in sub-clause (iii) and the whole of sub-clause (iv) were omitted by 2 A.L.O., 1956.

11. The original clauses (i), (j), (k) and (l) were lettered (h), (i), (j) and (k) respectively by Act 14 of 1942, S. 4.

12. Substituted for the words "in His Majesty's" by A.L.O., 1950.

13. Inserted by the Repealing and Amending Act, 1927 (10 of 1927), S. 2 and Sch. I.

20. Substituted for the words "a Part A or a Part C State" by Act 3 of 1951, S. 3 and Sch. (1-4-1951).

21. Added by Act 14 of 1942, S. 4.

4. Tolls on vessels transporting troops and baggage, etc., of troops embarked or disembarked :-

(1) No tolls shall be leviable by any local authority in respect of-

(a) any vessel employed by ¹[the Central Government] solely for the transport of troops, or

(b) the horses, baggage or other effects of any troops embarking or disembarking at any port, or

(c) carriages belonging to Government or employed ²[in the Indian] military ³[or air-force] service embarking or disembarking at any port.

(2) In respect of all such vessels or troops, their families, their horses, baggage and their effects, or any such carriages as aforesaid, the local authority concerned shall, in addition to its duties in the embarking and disembarking of the same, perform and supply all such reasonable services and accommodation as may from time to time, be required by ¹[the Central Government and shall receive payment for all such services and accommodation on such terms and for such periods as may, from time to time, be determined by ¹ [the Central Government] in consultation with such local authority.

1. Substituted for the words "the Government" by A.O., 1937.
2. Substituted for the words "in His Majesty's" by A.L.O., 1950.
3. Inserted by the Repealing and Amending Act, 1927 (10 of 1927), S. 2 and Sch. 1.

5. Penalty :-

Any person who demands and receives any toll in contravention of the provisions of section 3 or section 4 shall be punishable with fine which may extend to fifty rupees.

6. Compensation :-

(1) If any owner or lessee, or any Company, railway administration or local authority claims compensation for any loss alleged to have been incurred owing to the operation of this Act, the claim shall be submitted to the ¹[Central Government].

(2) On receiving any such claim, the ¹[Central Government] ³ [* * *] shall pass such order thereon as justice requires, and shall give all necessary directions for the purpose of ascertaining the facts of the case and of assessing the compensation, if any, to be paid.

1. Substituted for the words "Local Government" by A.O. 1937.
3. The words "subject to the control of the Governor-General in Council" were omitted Substituted for the words "Local Government" by A.O., 1937.

7. Rules :-

(1) The Central Government ¹ [* * *] may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Central Government ² [* * *] may make rules providing for the form of passes to be given to persons or bodies of persons or in respect of property entitled to exemption from the

payment of tolls under this Act.

(3) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

(4) An rules made under this section shall be published in the Official Gazette ³ [* * *] and, on such publication, shall have effect as if enacted_by this Act.

1. The words "and the Local Government with the previous sanction of the Gov- ernor General in Council" were omitted, by A.O" 1937.

2. The words "or the Local Government with the previous sanction of the Gov- ernor-General in Council" were omitted, the Indian Terri- torial Force" by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. (1-4- 1951).

3. The words "or in the local Official Gazette" were omitted, the Indian Terri- torial Force" by the Part B States (Laws) Act, 1951 (3 of 1951), S. 3 and Sch. (1-4- 1951).

8. Repeals :-

Repealed by the Repealing and Amending Act, 1914 (10 of 1914), S. 3 and Sch. II.]

SCHEDULE 1

THE SCHEDULE

.- Enactments repealed. [Repealed by the Repealing and Amending Act, 1914 (10 of 1914), S. 3 and Sch. II.]
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