

ARMED FORCES (SPECIAL POWERS) ACT, 1958

28 of 1958

[11th September, 1958]

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STATEMENT OF OBJECTS AND REASONS An Ordinance entitled the Armed Forces (Assam and Manipur) Special Powers Ordinance, 1958, was promulgated by the President on the 22nd May, 1958. Section 3 of the Ordinance empowers the Governor of Assam and the Chief Commissioner of Manipur to declare the whole or any part of Assam or the Union Territory of Manipur, as the case may be, to be a disturbed area. On such a declaration being made in the Official Gazette, any Commissioned Officer, Warrant Officer, non-commissioned officer or any other person of equivalent rank in the armed forces may exercise, in the disturbed area, the powers conferred by Sections 4 and 5 of the Ordinance. The Bill seeks to replace the Ordinance.- See Gaz. of India, 11-8-1958, Pt.II-S. 2, Ext. p. 714 (No. 26). Act 7 (of 1972).- Armed Forces (Special Powers) Regulation, 1958, which is in force in the State of Nagaland and which confers certain powers on the armed forces operating in the area declared "disturbed" under the Regulation, will cease to be in force with effect from the 5th April, 1972. A similar permanent law, namely, Armed Forces (Assam and Manipur) Special Powers Act, 1958 is in force in the States of Assam, Meghalaya and Manipur and in the Union territories of Arunachal

Pradesh and Mizoram. The application of that law had also been extended to the former Union territory of Tripura and the Act is now in force in the State of Tripura. On the expiry of Armed Forces (Special Powers) Regulation, 1958, it is proposed to apply Armed Forces (Assam and Manipur) Special Powers Act, 1958 also to the State of Nagaland. 2. The Armed Forces (Assam and Manipur) Special Powers Act, 1958, empowers only the Governors of the States and the Administrators of the Union territories to declare areas in the concerned State or Union territory as "disturbed". Keeping in view the duty of the Union under article 355 of the Constitution, inter alia. to protect every State against internal disturbance, it is considered desirable that the Central Government should also have power to declare areas as "disturbed", to enable its armed forces to exercise the special powers 3. The Bill seeks to suitably amend the Armed Forces (Assam and Manipur) Special Powers Act, 1958 to achieve these objects: -Gaz. of India, 16-3-1972, Pt. II-S. 2, Ext., p. 17.

1. Short title and extent :-

(1) This Act may be called ¹[The Armed Forces (Special Powers) Act, 1958.]

²[(2) It extends to the whole of the State of ³ [Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura].

1. Substituted for the words, brackets and figures "the Armed Forces (Assam and Manipur) Special Powers Act, 1958" by the Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972 (7 of 1972), S. 3 (5-4-1972).

2. Substituted by the Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972 (7 of 1972).

3. Substituted for the words "Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura and the Union territory of Arunachal Pradesh" by the State of Arunachal Pradesh Act (69 of 1986), S. 43 (20-2-1987).

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "armed forces" means the military forces and the air forces operating as land forces, and includes any other armed forces of the Union so operating,

(b) "disturbed area" means an area which is for the time being declared-by notification under section 3 to be a disturbed area;

(c) all other words and expressions used herein but not defined, and defined in Air Force Act, 1950, or Arms Act, 1950, shall have the meanings respectively assigned to them in those Acts.

3. Power to declare areas to be disturbed areas :-

If, in relation to any State or Union Territory to which this Act extends, the Governor of that State or the Administrator of that Union Territory or the Central Government, in either case, is of the opinion that the whole or any part of such State or Union Territory, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the Governor of that State or the Administrator of that Union Territory or the Central Government, as the case may be, may, by notification in the Official Gazette, declare the whole or such part of such State or Union Territory to be a disturbed area].

4. Special powers of the armed forces :-

Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,-

(a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;

(b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as training camp for armed volunteers or utilised as a hide-out by armed gangs or absconders wanted for any offence;

(c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;

(d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably

suspected to,be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary.

5. Arrested persons to be made over to the police :-

Any person arrested and taken into custody unde this Act shall be made over to the, officer in charge of the nearest police station with the least possible delay, together with a report.of the circumstances occasioning the arrest.

6. Protection to persons acting under Act :-

No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act

7. Repeal and Saving :-

Repealed by Amending and Repealing Act, 1960 (58 of 1960), First Schedule, S. 2 (26-12-1960).]