

CRIMINAL LAW AMENDMENT ACT, 1938

20 of 1938

[14th September, 1938]

CONTENTS

1. Short title, extent and commencement
- 2 . Dissuasion from enlistment and instigation to mutiny or insubordination after enlistment

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WHEREAS it is expedient to supplement the criminal law by providing for the punishment of certain acts prejudicial to the recruitment of persons to serve, in and to the discipline of, a [the Armed Forces of the Union); It is hereby enacted as follows :

1. Short title, extent and commencement :-

(1) This Act may be called The Criminal Law Amendment Act, 1938.

(2) It extends to the whole of India ¹[* * *]

(3) It shall come into force in a ²State on such date³ as ² the State Government may, by notification in the Official Gazette, appoint in this behalf for such State.

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

2. Substituted for 'Province' by A.L.O., 1950.

3. The Act came into force- (i) in the States of Ajmer, Coorg and Delhi on 1-8-1954 : see Gaz. of Ind., 24-7-1954, Pt. II, S. 3, p. 1806; (ii) in the State of Assam on 25-8-1954: see Asam Gaz.. 25-8-1954, Pt. II-A, page 1809; Assam has been split up into 2 States - Assam and Nagaland; (iii) in the State of Bombay on 31-8-1954: see Bom Gaz. 2-9-1954, Pt. IV-A, p. 360; Bombay has been divided into the State of Maharashtra and Gujarat; (iv) in the State of Jammu and Kashmir on 1-7-1955 : see J. and K. Gaz. 16-6-1955, Pt. III, p. 74. (v) in the State of Madhya Bharat on 10-12-1952 :

see M.B. Gaz. 1 1-12-1952, Pt. I-B, p. 592.(M.B. now forms part of Madhya Pradesh); (vi) in the State Madhya Pradesh on 1-9-1954: see M.P. Gaz. 27-8-1954, Pt. I, p. 576; (vii) in the State of Tamil Nadu on 1-11-1954: see G.O. M. No. 1960 published in the Gaz. of Ft. St. Geo., 3-11-1954, Pt. I, page 1435.(viii) in the State of Mysore on 20-3-1953 : see Mysore Gaz. 12-3-1953, Pt. 2-C, p. 110; (ix) in Pepsu (now in Punjab) on 1-6-1953 : see Pepsu Gaz., Extra, 4-6-1953, Pt. I, S.1, p. 105; (x) in the State of Travancore-Cochin on 1-9-1953 : see T.C. Gaz. 1-9-1953, Pt. I, page 168 (now known as Kerala); (xi) in the State of Uttar Pradesh on 20-8-1954: see U.P. Gaz. 1954, Pt. I, page 1041; (xii) in the State of West Bengal on 1-10-1954: see Cal. Gaz" Extra., 1-10-1954, Notification No.7461/2A- 33/54, D/-1-10-1954; (xiii) in all the partially excluded areas in the State of Orissa with retrospective effect from 3-2-1940: see Orissa Regulation I of 1943, S. 2 and Sch. 1. This Act has been extended to the new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949), S. 3 (1-1-1950) and to the Union Territories of Manipur and Tripura by the Union Territories (Laws) Act, 1950 (30 of 1950), S. 3 (16-4-1950). While Manipur and Tripura are full-fledged States now, Vindhya Pradesh now forms part of the State of Madhya Pradesh-See Acts 81 of 1971 and 37 of 1956, S. 9(l)(e) respectively. It has been extended to Sikkim.- See Gaz. of Ind., 1983, Pt. II, S. 3(ii), Ext., S.O. 529(E)/83. It has been extended to Union Territory of- (i) Dadra and Nagar Haveli, by Regulation 6 of 1963. (ii) Pondicherry, by Regulation 7 of 1963 (1-10-1963) and (iii) Laccadive, Minicoy and Amindivi Islands (now known as Lakshadweep Islands) by Regulation 8 of 1965 (1-10-1967). The Act has been extended also to the Autonomous Districts in the State of Assam by the Criminal Law Amendment (Extension to Autonomous Districts) Act, 1955 (Assam Act 7 of 1955), S. 2 (5-4-1955). It has been extended also to States Merged in the States of Bombay: see Bombay Merged States (Laws) Act 4 of 1950, Sch. II, Part 1 (30-3-1950). The Act has been declared in force in all partially excluded areas in Orissa by Orissa Regulation I of 1943.

2. Dissuasion from enlistment and instigation to mutiny or insubordination after enlistment :-

Whoever-

(a) with intent to affect adversely the recruitment of persons to serve in the Military, Naval or Air Forces of ¹[the Union], wilfully dissuades or attempts to dissuade the public or any person from entering any such Forces; or

(b) without dissuading or attempting to dissuade any person from entering such Forces, instigates the public or any person to do, after entering any such Force, anything which is an offence punishable as mutiny or insubordination under S.27 of the Indian

Army Act, 1911, or sections 10, S.12 of the Indian Navy (Discipline) Act, 1934 and S.14 of the Indian Navy (Discipline) Act, 1934 to S.17 of the Indian Navy (Discipline) Act, 1934 inclusive of ²[* * *] Navy (Discipline) Act, 1934 or sections 35 to S.37 of the Indian Navy (Discipline) Act, 1934 inclusive of Air Force Act, 1932, as the case may be, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both. No person shall be prosecuted for any offence under this Act except with the previous sanction of the ³[State Government]⁴ .

Exception 1.- The provisions of clause (a) of this section do not extend to comments on or criticism of the policy of Government in connection with the Military, Naval or Air Forces, made in good faith without any intention of dissuading from enlistment.

Exception II.- The provisions of clause (a) of this section do not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given, or for the benefit of any member of his family or of any of his dependants.

1. Substituted for "His Majesty", by A.L.O., 1950'
2. Words "the Naval Discipline Act as applied to the Indian Navy by" were omitted by A.L.O., 1950.
3. Substituted for 'Provincial Government' by A.L.O., 1950.
4. In pursuance of clause (1) of Art. 239 of the Constitution, the President has directed that the Chief Commissioners of Delhi, Ajmer and Coorg shall, subject to the control of the Central Government and until further orders, exercise the powers of the State Government under S. 2 of the Criminal Law Amendment Act, 1938 (20 of 1938) in the States of Delhi, Ajmer and Coorg respectively. See S.R.O.2416, D/-20-7-1954, published in Gaz. of Ind., 24-7-1954, Pt. II, S. 3, page 1806. Ajmer and Coorg have now merged with the States of Rajasthan and Mysore respectively.