

ASSAM HOME GUARDS ACT, 1947*

(Assam Act XXIV of 1947)

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An Act to provide for the constitution of Home Guards

Preamble. Whereas it is expedient to provide a volunteer body called the Home Guards to supplement the ordinary police force in certain parts of the Province :

It is enacted as follows :

1. Short title, extent and commencement. (1) This Act may be called the Assam Home Guards Act, 1947.
- (2) It extends to the whole of Assam.
- (3) It shall come into force—
 - (i) in any revenue district or part thereof on such date as the State Government may by notification appoint ; and
 - (ii) at once in the districts of Goalpara, Kamrup, Silchar and Karimganj.

COMMENTS

Section 1. This Act has not been specifically extended in its application to the Union Territories of Mizoram and Arunachal, but this Act has been adapted in its application to the State of Meghalaya *vide* the Meghalaya Adaptation of Laws Order (No. 4) of 1971, published in the Gazette of Meghalaya dated 30-11-1971, whereby sub-Ss. (2) and (3) of S. 1

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of the original Act were omitted and re-named as the Meghalaya Home Guards Act, *vide* Meghalaya Adaptation of Laws Order (No. 3), 1973, having come into force on the 21st day of January, 1972.

2. Definitions. In this Act unless there is anything repugnant in the subject or context—

(a) "Home Guard" means a person who is appointed as such under this Act ;

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

3. Raising of Home Guards. (1) In any revenue district or part thereof in which this Act is in force, the State Government may raise in such manner as may be prescribed, Home Guards who shall discharge such duties in relation to the protection of the person, the security of property and the public safety or convenience as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder.

(2) The Home Guards in the State shall, for the purposes of this Act, be deemed to be a single force and the members thereof shall be formally appointed; and such force shall consist of such number of officers and men as may be ordered by the State Government.

(3) The conditions of training and service including an honorarium and board and lodging of the officers and men of the Home Guards shall be such as may be prescribed.

4. Subordination and superintendence. (1) Subject to sub-S. (2) of S. 3 there shall be a Commandant-General of the Home Guards and for every revenue district, or part thereof, in which this Act is in force one or more Commandants subordinate to him and such other officers subordinate to them as may be necessary.

(2) The superintendence of the Home Guards throughout Assam shall vest in and shall be exercised by the State Government through Inspector General of Police of the State in such manner and to such extent as may be prescribed.

(3) The administration of the Home Guards throughout Assam shall vest in the Commandant-General and in every revenue district or part thereof as the State Government may decide, in one or more Commandants.

5. Appointment of officers. (1) The Commandant-General shall be appointed by the State Government.

(2) The appointment of any Home Guard to an office of command subordinate to that of the Commandant General shall be made in such manner as may be prescribed.

6. Appointment of Home Guards. (1) Subject to the provisions of this Act and to the rules made thereunder any person willing to serve as a Home Guard and possessing such qualifications as may be prescribed may be appointed a Home Guard.

(2) The appointment of Home Guards shall be made in such manner and by such authority as may be prescribed.

(3) (a) Every officer and every man of the Home Guard shall receive on his appointment a certificate in the form annexed to this Act under the seal, in the case of men, by virtue of which the person holding such certificate shall be vested with the powers and privileges of a Home Guard.

(b) Such certificate shall cease to have effect whenever the person named in it ceases to be a Home Guard and, on his so ceasing shall within ten days be surrendered by him to the Commandant-General if he is an officer and to the Commandant in all other cases.

7. **Duties and training of Home Guards.** (1) Subject to any rule made in his behalf it shall be the duty of every Home Guard promptly to obey and execute all orders issued to him by any competent authority, to collect and communicate to his immediate superior intelligence affecting the public safety and to prevent the commission of offences against person or property.

(2) Subject to any rules made in this behalf a Home Guard may be required to undergo for a period of not more than two months' training as may be prescribed; after which he shall serve as a Home Guard for a period of six months which period may be extended by the State Government to a total period of not more than twelve months if the State Government considers such extension necessary and shall thereafter serve in the reserve for a period of three years and while in reserve shall be liable to be called out for duty at any time.

8. **Discharge.** (1) Every officer and man of the Home Guards shall be entitled to receive his discharge from the Home Guards on the expiration of his period of service in the reserve; but any such person may before he becomes so entitled be discharged by such authority, and subject to such conditions as may be prescribed.

(2) The prescribed authority may, subject to such conditions as may be prescribed, dismiss any officer or man from the Home Guards.

9. **Uniform.** Officers and men of the Home Guards shall wear such uniform as may be prescribed.

10. **Calling of Home Guards.** The District Magistrate having jurisdiction over any revenue district or part thereof in which Home Guards are raised may, by an order made in such manner as may be prescribed, call out any Home Guard for the discharge of his duty under this Act and the rules made thereunder.

11. **Control over Home Guards.** The Home Guards at all times when undergoing training or when called out be under the control and subject to the orders of their officers, and shall when called out be further subject to such extent as may be prescribed.

12. **Powers and protection of Home Guards.** (1) Subject to the provisions of this Act or the rules made thereunder a Home Guard when

called out under S. 10 shall have the same powers, privileges and protection as an officer of Police appointed under any enactment for the time being in force.

(2) No prosecution shall be instituted against a Home Guard in respect of anything done or purporting to be done by him in the discharge of his duty as a Home Guard, except with the previous sanction of the State Government or some officer empowered by the State Government in this behalf.

13. Penalty. (1) Every Home Guard who is guilty of any violation of duty or wilful breach or neglect of any provision of this Act or of any rule or lawful order made by competent authority, or who withdraws from the duties of his office without permission or who on being required to undergo training under S. 7 or being called out under S. 10 without sufficient cause neglects or refuses to obey the requirement or the order calling him out, or who is guilty of cowardice or offers any unwarrantable personal violence to any person in his custody, or who fails within ten days to surrender his certificate under Cl. (b) of sub-S. (3) of S. 6, shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both.

(2) An offence punishable under sub-S. (1) shall be cognizable.

14. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for or regulate all or any of the following matters, namely :

(a) all matters which are required by this Act to be prescribed ;

(b) the exercise by the Commandant General or the Commandant or other officer of the Home Guards of the powers conferred on District Superintendents of Police in Assam ;

(c) the organisation, appointment, conditions of service, functions, discipline, arms, accoutrements, clothing and uniform of the Home Guards and the manner in which they may be called out for service or required to undergo training ; and

(d) the exercise by a Home Guard of any of the powers exercisable under S. 12 of the Act.

15. Home Guard to be a public servant. A Home Guard acting in the discharge of his functions under this Act or Act XLV of 1860 shall be deemed to be public servant within the meaning of S. 21 of the Indian Penal Code.

ANNEXURE

Form of certificate

[See Section 6 (3) (a)]

Name.....

Son of.....

Caste.....

Resident of.....

has been appointed an officer/a member of the Home Guards under S. 6 (3) (a) of the Assam Home Guards Act, 1947. When lawfully on duty, he shall have the same powers, privileges and protection as an officer of police appointed under any enactment for the time being in force.

Place.....

Date of appointment

Date

Commandant-General of the Home Guards, Assam.

Commandant of the Home Guards.....

(SEAL)