

THE NAGALAND HOME GUARDS ACT, 1988
(THE NAGALAND ACT NO. 4 OF 1988)

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An

Act

To constitute a voluntary organisation to be known as the Home Guards, for service during emergencies and for certain other purposes so as to inculcate habit, of self reliances and discipline among the volunteers and to develop amongst them a sense of civic responsibility.

It is hereby enacted by the Legislative Assembly of Nagaland in the Thirty ninth year of the Republic of India as follows:

Short title and commencement

1. (1) This Act may be called the Nagaland Home Guards Act, 1988.
- (2) It extends to the whole of Nagaland.
- (3) It shall be deemed to have come into force with effect from the 5th January 1988.

Definitions

2. In this Act unless these 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.
 - (c) "State" means Government of Nagaland.

Raising of Nagaland Home Guards

3. (1) In any District or part thereof in which this Act is in force the State Government may raise, in such manner as may be prescribed, a voluntary body called Home Guards, the members of which shall discharge such functions and duties in relation to the protection of the persons, the security of property, the public safety, maintenance of essential service and development activities 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 decided by the State Government.
- (3) The conditions of service and training including honorarium, boarding and lodging of the officers and men of the Home Guards shall be such as may be prescribed.

Superintendence and Control of Home Guards

4. (1) Subject to sub-section (ii) of section 3, there shall be a commandant-General and a Deputy Commandant General of the Home Guards. In every District or part thereof, in which this Act in force there shall be one or more Commandants subordinate to them and such other officers subordinate to the Commandant as may be necessary.

- (2) The superintendence of the Home Guards throughout the State shall vest in and be exercised by the State Government through Commandant General, Home Guards of the State in such manner and to such extent as may be prescribed.
- (3) The administration of the Home Guards throughout the State shall vest in the Commandant General and in every District or part thereof as the State Government may decide in or more District Commandants.

Appointment of Commandant General, Deputy Commandant General and Commandant

5. (1) The Commandant General/Deputy Commandant General shall be appointed by the State Government.
- (2) The appointment of other officers and staff subordinate to Commandant General/Deputy Commandant General shall be made in such manner as may be prescribed.

Appointment of members of Home Guards

- 6 (1) Subject to the approval of the Commandant General, the Commandant may appoint the Home Guards, who are fit and willing to serve and possess such qualification as may be prescribed from time to time, and may appoint any such member to any office of Commandant in the Home Guards under him
- (2) Notwithstanding anything contained in sub-section (1) the Commandant General may appoint any such member to any office of command under his immediate control.
- (3) A member of the Home Guard shall, on appointment, make a declaration in form I and receive a certificate of appointment in form II under the seal and signature of such officer as may be prescribed.
- (4) Subject to any rules made in this behalf, a member of the Home Guard shall be required to serve the Home Guards organisation for a period of three years including the period spent in training which period may be extended by the Government to such further period as it may consider necessary, and the member of the Home Guards shall thereafter, serve in the Reserve Force of the Home Guards for a period of three years while serving in such Reserve Force the Home Guards shall be liable to be called Out for, duty at any time.

Power to discharge member of Home Guards

7. Notwithstanding anything contained in sub-section (4) of section 6, the Commandant General or the Commandant shall have the authority to discharge any member of the Home Guards at any time subject to such condition as may be prescribed, if in his opinion, the services of such member are no longer required.

Reserve Force of Home Guards,

8. The Government shall by notification, constitute Reserve Force of the Home Guards consisting of members of Home Guards who under sub-section (4) of section 6 are required to serve, in the Reserve Force.

Training function and duties of members

9. (1) The Commandant General, Deputy Commissioner, Additional Deputy Commissioner, Commandant or any other officer authorised by the State Government may at any time call out a member of the Home Guards for training or to discharge any of the functions of duties assigned to the Home Guards in accordance with the provision of this Act and the rules made thereunder.

- (2) The State Government/Commandant General, may **in any emergency**, call out member of the Home Guards for training or to discharge any of the said functions and duties.

Powers, protection and privileges

- 10 A member of the Home Guards when called out under section 9 shall have the same powers, privileges and protection as an officer of Police appointed under any law for the time being in-force.

Control by officers of Police force

11. The members of the Home Guards when called out under section 9 of the Act shall be under the control of the officers of the police force in such manner, and to such extent as may be prescribed.

Certificate arms etc. to be delivered by person ceasing to be a member of the Home Guards.

12. (1) Every person who for any reason ceases to be a member of the Home Guards shall forthwith deliver to the Commandant or to such person, and at such place, as the Commandant may direct, his certificate of appointment, or of office, identity card, the arms and ammunition, clothing and other necessaries which have been furnished to him as such member.
- (2) Any Deputy Commissioner or, for special reasons which shall be recorded in writing, any Police officer, not below the rank of Deputy Superintendent of Police, may issue a warrant to search and seize, wherever they may be found, any certificate, identity card, arms, ammunition, clothing or other necessaries not so delivered. Every warrant so issued shall be executed in accordance, with the provisions of the Code of Criminal Procedure 1973 by a Police officer or if the Deputy Commissioner or the Police officer issuing the warrant so directs, by any other person.
- (3) Nothing in this section shall be deemed to apply to any article which under the orders of the Commandant General has become the property of the person to whom the same was furnished.

Punishment of members on neglect of duty etc.

13. (1) The Commandant General or the Commandant shall have the authority to suspend, reduce in rank, or dismiss or fine to an amount not exceeding fifty rupees on any member, of the Home Guards under his control, if such member, on being called out under section 9 without reasonable cause neglects or refuses to obey such order to discharge his functions and duties as a member of the Home Guards or refuses to obey any other lawful order or direction given to him for the performance of his functions and duties, or is guilty of any other breach of discipline or misconduct.

The Commandant-General or the Commandant shall also have the authority to dismiss any member of the Home guards on the ground of conduct which has led to his conviction on a criminal charge.

- (2) When the Commandant-General or the Commandant passes an order for suspending, reducing in rank, dismissing or fining any member of the Home guards under sub-section (1) he shall record such order, or cause the same to be recorded, together with the reasons thereof and a note of the inquiry made, in writing and such order shall not be passed by the Commandant General or the Commandant unless the person concerned is given an opportunity to be heard in his defence.
- (3) Any member of the Home guards aggrieved by an order of the Commandant, may appeal against such order to the Commandant- General and any such member aggrieved by an order of the Commandant-General may appeal against such order to the Government, within thirty days of the date on which he was served with notice of such order. The Commandant General, or the Government, as the case may be, may pass such order as he or it thinks fit.
- (4) The Commandant-General, or the Government, may, at anytime, call for and examine the record of any order passed by the Commandant or the Commandant General respectively under subsection (1) for the purpose of satisfying himself or itself as to the legality or propriety of such order passed

by the Commandant or the Commandant General, as the case may be and may pass such order with reference thereto as he or it thinks fit.

- (5) Every order if no appeal is made there from as herein before provided, and every order passed in appeal or revision under this section, shall be final.
- (6) Any fine imposed under this section may be recovered in the manner provided by the Code of Criminal Procedure of 1973, for the recovery of fine imposed by a court as if such fine were imposed by a Court.
- (7) Any punishment inflicted on a member of the Home Guards under this section shall be in addition to the penalty to which member is liable under section 14 or any other law for the time being in force.

Explanation; When the Commandant General, while exercising the Powers of the Commandant, passes any order under sub-section (1) or section 7:

- (a) the appeal from such order shall, lie to the Government.
- (b) for the purposes of sub-section (4), the power of revision in respect of such order shall vest in the Government.

Penalty

14. (1) If any member of the Home Guards, on being called out under section 9 without reasonable excuse, neglects or refuses to obey such order, or to discharge his functions as such member to obey any lawful order or direction given to him for the performance of his duties, he shall on conviction, be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or both.
- (2) If any member of the Home Guards wilfully neglects or refuses to deliver his certificate of appointment or of office or of any other article, in accordance with the provisions of sub-section (1) of section 12 he shall, on conviction, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.
- (3) No proceedings shall be instituted in any Court under sub-section (1) or (2) without the previous sanction of the Commandant-General.
- (4) Any Police officer not below the rank of Assistant Sub-Inspector may arrest without warrant any person who commits an offence punishable under sub-section (1) or sub-section (2).

Power to make rules

15. (1) The Government may, by notification, make rules consistent with this Act for
 - (a) regulating the powers exercisable by Commandant General, the Commandant, the Deputy Commissioner other officers authorised by the Commandant under section 9;
 - (b) Providing for the exercise of control by officers of the Police force over members of the Home Guards when acting in aid of the Police force;
 - (c) regulating the organisation, appointment, conditions of service, qualification, functions, duties, discipline, arms, accoutrements and clothing of members of the Home Guards and the manner in which they may be called out for service or be required to undergo any training.
 - (d) regulating the exercise of any powers by members of the Home Guards exercisable under section 10 of this Act.
 - (e) Generally for giving effect to the provisions of this Act.
- (2) Every rule made under this Act shall be laid, soon as may be after it is made before the Legislative Assembly while it is session for a total period of not less than seven days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the session is aforesaid, the Assembly makes any modification in the rule or decide 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.

Member of Home Guards to be Public Servant

16. Members of Home Guards acting under this Act, shall be deemed to be Public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860

Home Guards not disqualified from contesting elections to Legislature or local bodies

17. (1) Notwithstanding anything contained to the contrary in any other law for the time being enforce a member of the Home Guards shall not be disqualified for being chosen as, and for being, as member of any local authority or Legislature merely by reason of the fact that he is a member of the Home Guards.
- (2) For the removal of doubts, it is hereby declared that a Commandant-General or Commandant appointed under section 5 shall not be a member of the Home Guards and as such he shall be disqualified for being chosen as, and for being, a member of any local authority or Legislature.

Repeal and savings

18. (1) The Nagaland Home Guards, Ordinance of 1987 is hereby repealed.
Nagaland Ordinance 1 of 1988
- (2) Notwithstanding such repeal, anything done or any action taken including any appointment or delegation made, order or direction issued, rule made under the said Ordinance shall he deemed to have been done or taken, under the corresponding provisions of this Act, and shall continue in force accordingly unless and until superceeded.