

Act No. 11/1997
Date of Assent 17/11/1997
Date of Publication 27/11/1997

**GOVERNMENT OF MANIPUR
SECRETARIATE : LAW & LEGISLATIVE AFFAIRS
DEPARTMENT**

NOTIFICATION
Imphal, the 27th Nov., 1997

No.2/20/89-Leg/L : The following Act of the Legislature, Manipur which received assent of the President of India on 17-11-1997 is hereby published in the Official Gazette.

**Sd/- L. Ibemcha Singh
Secretary to the Government of
Manipur**

**THE MANIPUR HOME GUARDS ACT, 1989
(Manipur Act No. 11 of 1997)**

Am

Act

consolidate and amend the constitution of the Home Guards in Manipur.

Whereas it is expedient to provide a volunteer organisation for use in emergencies and for other purposes in the State of Manipur.

BE it enacted by the Legislature of Manipur in the Fortieth Year of the public of India as following :—

(1) Short title, extent and commencement.— (1) This Act may be called the Manipur Home Guards Act, 1989.

(2) It extends to the whole of the State of Manipur.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) "Commandant General" includes Additional Commandant General, Deputy Commandant General and Assistant Commandant General;
- (b) "home guard" means a person who is appointed as such, and include an officer appointed under this Act;
- (c) "prescribed" means prescribed by rules framed under this Act;
- (d) "State Government" means the State Government of Manipur.

3. Constitution of Home Guards.—(1) The State Government shall, by notification in the official Gazette, constitute for the State of Manipur a volunteer body called the Manipur Home Guards, the members of which shall discharge such functions and duties in relation to the protection of persons, the security of property, the public safety, the maintenance of essential services and the preservation of public order and tranquillity as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder:

Provided that the State Government may, by notification in the official Gazette, divide the State of Manipur into two or more areas and constitute such a volunteer body for each such area.

(2) The Home Guards constituted for different areas in the State of Manipur shall, for the purpose of this Act, be a single force and the members thereof shall be enrolled and such force shall consist of such number of personnel, and their qualifications and conditions of training and service shall be such as may be prescribed.

4. Appointment of Commandant General and other Officers.—(1) The State Government shall appoint a Commandant General of Home Guards and also appoint Additional Commandant General, Deputy Commandant General and Assistant Commandant General as the State Government may desire so.

(2) The State Government shall also appoint a Commandant of each of the Home Guards constituted under section 3.

5. Superintendence and Administration of Home Guards.—(1) The Superintendence of the Home Guards shall vest in and be exercised by the State Government.

(2) The administration of the Home Guards throughout the State shall vest in and be exercised by the Commandant General and in any such officer appointed under sub-section (1) of section 4.

6. Appointment of Home Guards and certificate of appointment etc.—(1) Subject to the approval of the Commandant General, the Commandant may appoint as members of the Home Guards such number of persons who are fit and willing to serve as may from time to time be determined by the State Government and may appoint any such member to any office of command in the Home Guards.

(2) Notwithstanding anything contained in sub-section (1) the Commandant General may, subject to the approval of the State Government, appoint, any such member to any post under his immediate control.

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(3) (a) Every member of the Home Guards shall on enrolment receive a certificate in the form specified in the Schedule, under the seal of the Commandant General in the case of officers and of the Commandant in the case of volunteers, by virtue of which the person holding such certificate shall be vested with the powers and privilege of a member of the Manipur Home Guards.

(b) Such certificate shall cease to have effect whenever the person named in it ceases to have a member of Home Guards 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.

(4) The term of office for which a member of Home Guards may be required to serve will be such as may be prescribed.

7. Training, functions and duties.—The Commandant General or the Commandant in any area may, at any time, call out a member of the Home Guards for training or to discharge any of the functions assigned to the Manipur Home Guards in accordance with the provisions of this Act and rules made thereunder.

8. Powers, protection and control.—(1) A member of the Home Guards when called out under section 7 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 member of Home Guard in respect of anything done or purported to be done by him in the discharge of his function or duties as such member of Home Guard, except with the previous sanction of the State Government.

9. Control of members of Home Guards.—The members of the Home Guards when called out for undergoing training or in the aid of police force, shall be under the control of the officers of such force, in such manner and to such extent as may be prescribed.

10. Certificates, arms, etc. to be delivered up by persons ceasing to be the member of Home Guards.—(1) Every member of Manipur Home Guards who for any reason ceases to be a member of the Home Guard shall, forthwith deliver up to the Commandant or to such person and at such place as the Commandant may direct, his certificate of enrolment or of office and the arms, accoutrement, clothings and other necessities which have been furnished to him as such member of Manipur Home Guards.

(2) Any Magistrate of the first class, or, for special reasons which shall be recorded in writing at the time, any police officer not below the rank of an Assistant or Deputy Superintendent of Police may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothings or other necessities not so delivered up and every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) by a police officer or if the Magistrate 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.

11. **Punishment for neglect of duty etc.**—(1) The Commandant shall have the power to suspend, reduce or dismiss or to impose fine not exceeding a sum of rupees two hundred and fifty on any member of the Home Guards under his control, if such member neglects or refuses to discharge his functions and duties as a member of the Manipur Home Guards or disobeys any lawful order or direction given to him for the due performance of his functions and duties or is guilty of any breach of the discipline or misconduct.

(2) The Commandant General may in respect of any member of Home Guards appointed to a post immediately under his control impose any penalty specified in sub-section (1) and may also dismiss any member of the Manipur Home Guards on the ground of conduct which has led to his conviction on a criminal charge.

(3) Notwithstanding anything contained in this Act, the Commandant General or the Commandant may discharge any member of the Home Guards at any time subject to such conditions as may be prescribed, if in the opinion of the Commandant General or the Commandant, as the case may be, services of such member are no longer required.

(4) When the Commandant General or the Commandant passes an order suspending, reducing, dismissing or imposing fine on any member of the Manipur Home Guards, under sub-section (1) or sub-section (2) he shall do so only after due enquiry and shall record such order together with the reasons therefore and no order shall be passed by the Commandant General or the Commandant unless person concerned is given a reasonable opportunity to be heard in his defence.

(5) Any member of the Manipur Home Guards aggrieved by an order of the Commandant may appeal against such order to the Commandant General and, if aggrieved by an order of the Commandant General, may appeal against such order to the State Government. The appeal shall be filed within forty-five days from the date on which the order is received by such aggrieved person.

(6) The Commandant General or the State Government may, either *suomotu* or on application call for and examine the records of any order passed by any officer subordinate to him or it under this Act for the purpose of satisfying himself or itself as to the legality or propriety of such order and may pass such order with reference thereto as he or it thinks fit.

(7) Notwithstanding anything contained in any other law,—

- (a) any order passed in revision under sub-section (6);
- (b) subject to such order in revision any order passed in appeal under sub-section (5);
- (c) subject to the orders in revision and appeal aforesaid, any order passed by the Commandant General or the Commandant under sub-section (1) and (2);

shall be final.

(8) Any fine imposed under this section may be recovered in the manner provided by the Code of Criminal Procedure, 1973 for the recovery of fine imposed by a Court as if such fines were imposed by a Court.

12. Penalties for breach of duties etc.—(1) Every member of 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 has withdrawn from the duties of his office without permission or who being required to undergo training under section 7 or being called out under section 9 without sufficient cause neglects or refuses to obey the requirements or the order calling him out or who is guilty of cowardice or offers any unwarranted personal violence to any person in his custody or who fails within thirty days to surrender his certificate, arms, accoutrements, clothings and other necessities under sub-section (1) of section 10 shall 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 with both.

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

(3) The Commandant General or subject to the control of the Commandant General, the Commandant or Officer not below such rank as may be prescribed, may for any act of commission or omission punishable under sub-section (1) award to any member of Home Guards, without formal trial, who is subject to his authority, any of the following punishments namely,

(a) imprisonment in the quarter guard of a police line or such other place as may be considered suitable, for a term which may extend to 28 (twenty eight) days when the order is passed by the Commandant General or to 7 (seven) days when it is passed by any other officer. Such imprisonment shall involve the forfeiture of pay and allowances, if any, for the period of imprisonment;

(b) punishment drill, extra guard, fatigue or other duty not exceeding twenty eight days in duration with or without confinement to the lines as may be appropriate.

(4) No proceedings shall be instituted in any Court under sub-section (1) without the previous sanction of the State Government.

13. Power to make rules.— (1) The State Government may make rules for carrying out the purpose of this Act.

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

(a) regulating the powers exercisable by the Commandant General and the Commandant under section 7 and providing for the exercise by any officer of Manipur Home Guards of the said power;

(b) the exercise of control by officers of the police over members when acting directly in aid of the police force;

(c) regulating the organisation, appointment, conditions of service, duties, discipline, arms, accoutrements and clothings of the members of Home Guards and the manner in which they may be called out for service including prescribing their terms of office;

(d) conferring on members according to their office any powers other than the powers of an Executive or Judicial Magistrate exercisable by any person under any law for time being in force; and

(e) any other matter which has to be, or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be, before the House of the State Legislature while it is in session, for a total period of twenty days which may be comprised in one session or in two or more successive sessions, and if, before expiry of the session immediately following or successive sessions aforesaid, the House agree in making modification in the rule 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 amendment shall be without prejudice to the validity of anything previously done under that rule.

14. A member of Home Guards to be public Servant—A member of Manipur Home Guards acting under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

15. A member of Home Guards not disqualified for election to State Legislature or Local Bodies—(1) A member of Manipur Home Guards shall not be disqualified for being chosen as and for being a member of Manipur Legislative Assembly of the State of Manipur merely by reason of the fact that he is a member of the Home Guards.

(2) Notwithstanding anything contained to the contrary in any other law for the time being in force, a member of the Manipur Home Guards shall not be disqualified for being chosen as and for being a member of any local authority merely by reason of the fact that he is a member of Manipur Home Guards or that he holds any office of profit under the Government by virtue of his being a member of the Manipur Home Guards.

16. Repeal and Savings—(1) The Manipur Home Guards Act, 1966 (Manipur Act No. 7 of 1966) is hereby repealed.

(2) Notwithstanding such repeal, anything done or action taken (including any appointment or delegation made, order or direction issued, rules made under that Act etc.) under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless superseded by anything done or any action taken under relevant provisions of this Act.

THE SCHEDULE,

{See section 6 (3)}

Form of certificate of appointment

Shri — — — — son of — — — — resident of — —
has been appointed a Home Guard under section 6(3) of the Manipur Home
Guards Act, 1989.

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.


Date of appointment.

Place :
Date :

Signature and Seal of the Prescribed
Authority.

Memo No.2/20/89-Leg/L. Imphal, the 27th Nov., 1997

Copy to : 1. The Secretary to the Governor, Manipur.
2. The Secretary, Legislative Assembly, Manipur.
3. The Spl. Secretary (Home), Govt. of Manipur.
4. The Director, Printing & Stationery, Manipur
for favour of publication in the Manipur
Gazette Extra-Ordinary dated 27-11-97. He
is requested kindly to send 50 (fifty) copies
of the publication to the Law Department.
5. Guard File


(Th. Kamini Kumar Singh)
Assistant Draftsman (Law),
Government of Manipur