

THE ARUNACHAL PRADESH HOME GUARDS
ACT, 2006

(ACT NO. 12 OF 2006)

(Received the assent of the Governor on 6th
December, 2006)

AN

ACT

*to provide for constitution of a volunteer organization
for use in emergencies and for the incidental purposes
in the State of Arunachal Pradesh:*

WHEREAS it was expedient to provide a volunteer
organization for use in emergencies and for the incidental
purposes in the state ;

AND WHEREAS, it was considered necessary to
immediately make a law for the same ;

AND WHEREAS the Arunachal Pradesh Legislative
Assembly was not in session ;

AND WHEREAS the Governor of Arunachal
Pradesh was satisfied that circumstances existed which
rendered it necessary for him to take immediate action
to make law for the purposes aforesaid and therefore,
promulgated the Arunachal Pradesh Home Guards
Ordinance, 2006 on 31st July, 2006 ;

AND WHEREAS it is expedient to replace the said
Ordinance by an Act of the State Legislature and it is
hereby enacted in the Fifty-seventh Year of the Republic
of India as follows :-

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Arunachal
Pradesh Home Guards Act, 2006.

(2) It extends to the whole of the State of Arunachal
Pradesh.

(3) It shall be deemed to have come into force on
31st July, 2006.

2. (1) The Governor of Arunachal Pradesh shall constitute for the State of Arunachal Pradesh a volunteer body called the Home Guards, the members of which shall discharge such functions and duties in relation to the protection of persons, the security of property and the public safety as may be assigned to them in accordance with the provisions of this Act and the Rules made there under.

Constitution of Home Guards and appointment of Commandant General and Commandant.

Provided that the Governor of Arunachal Pradesh may, by notification in the Official Gazette, divide the State of Arunachal Pradesh into two or more areas and constitute such a volunteer body for each such area.

(2) The Director General of Police shall be the ex-officio Commandant General of the Home Guards in whom shall vest the general supervision and control of the Home Guards throughout the State of Arunachal Pradesh. However, the Governor of Arunachal Pradesh may also appoint another officer as the Commandant General of the Home Guards, if so required.

(3) The District Superintendent of Police shall be the ex-officio Commandant for the Home Guards constituted under sub-section (1), in each district.

3. (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 Commandant General and may appoint any such member to any office of Commandant in Home Guards.

Appointment of members.

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

4. (1) The Commandant may at any time call out a member of the Home Guards for training or to discharge any of the functions or duties assigned to the Home Guards in accordance with the provision of this Act and the rules made thereunder.

Functions and duties of members.

(2) The Commandant General may in an emergency call out a member of the Home Guards for training or to discharge any of the said functions or duties in any part of the State of Arunachal Pradesh.

Powers,
protection and
control.

5. (1) A member of the Home Guards when called out under section 4 shall have the same powers and protection as an officer of police appointed under any Act for the time being in force.

(2) No prosecution shall be instituted against a member of the Home Guards in respect of any thing done or purporting to be done by him in the discharge of his functions or duties as such member, except with the prior sanction of the District Magistrate.

Control by
officers of
police force.

6. The members of the Home Guards when called out under section 4 in aid of the police force shall be under the control of the officers of the police force in such a manner and to such extent as may be prescribed by rules made under section 10.

Certificate,
arms, etc. to
be delivered
up by person
ceasing to be
member.

7. (1) Every person who for any reason ceases to be a member of the Home Guards shall forthwith deliver up to the Commandant or to such person and at such place as the Commandant may direct, his certificate of appointment or of office and the arms, accoutrements, clothing and other Home Guards properties, if any in his possessions which have been furnished to him as such member.

(2) Any Magistrate, and for special reasons which shall be recorded in writing at the time, any police officer not below the rank of Assistant or Deputy Superintendent of Police may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other properties not so delivered up. 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 persons to whom the same was furnished.

8. (1) The Commandant shall have the authority to suspend, reduce, dismiss or fine an amount not exceeding rupees two hundred and fifty, any member of the Home Guards, under his control, if such member, without reasonable cause, on being called out under section 4 neglects or refuses to obey such order or to discharge his functions and duties as a member of Home Guards or to obey any such lawful order or direction given to him for the performance of his functions and duties or is guilty of any breach of discipline or misconduct, 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. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

Punishment of members for negligence of duty, etc.

(2) Notwithstanding anything contained in this Act, the Commandant shall have the authority to 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, the services of such member are no longer required. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(3) When the Commandant General or the Commandant passes an order suspending, reducing, 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 no such order shall be passed by the Commandant General or the Commandant unless the person concerned is given an opportunity to be heard in his defence.

(4) 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 Secretary/Commissioner of Home, Government of Arunachal Pradesh within thirty days of the date on which he was served with notice of such order. The Commandant General or the Secretary/Commissioner of Home as the case may be, may pass such order as he thinks fit.

(5) The Commandant General or Secretary/Commissioner of Home may, at any time, call for and examine the record of any order passed by the Commandant/Commandant General as the case may be under sub-section (1) or (2) for the purpose of satisfying himself as to the legality or propriety of such order passed by the Commandant or Commandant General as the case may be and may pass such order with reference thereto as he thinks fit.

(6) Every order if no appeal is made therefrom as hereinbefore provided and every order passed in appeal or revision under this section shall be final.

(7) Any fine imposed under this section may be recovered in the manner provided by the Code of Criminal Procedure, 1973 (2 of 1974) for the recovery of fines imposed by a Court as if such fines were imposed by a Court.

(8) Any punishment inflicted on a member of the Home Guards under this section shall be in addition to the penalty to which such member is liable under section 7 or any other law for the time being in force.

Penalty. (1) If any member of the Home Guards, on being called out under section 4, without reasonable excuse, neglects or refuses to obey such order, or to discharge his functions as a member of the Home Guards, or 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 with both.

- (2) If any member of the Home Guards willfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provisions of sub-section (1) of section 7, 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 proceeding shall be instituted under sub-section (1) or (2) without the prior sanction of the Commandant.
- (4) A police officer may arrest without warrant any person who commits an offence punishable under sub-section (1) or (2).

10. The State Government may, by notification, make rules on the following matters for carrying out the provisions of the Act.

Powers to make rules.

- (a) providing for the exercise by any officer of the Home Guards of the powers conferred by section 4 of the Commandant and the Commandant General;
- (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) regarding the organization, appointment, conditions of service, functions, discipline, arms, accoutrements and clothing of members of the Home Guards and the manner in which they may be called out for service;
- (d) regulating the exercise by members of the Home Guards of any of the powers exercisable under section 5 of this Act;
- (e) generally for giving effect to the provisions of this Act.

11. Members of the Home Guards acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

Members of Home Guards to be public servant.

Repeal and
savings.

12. (1) The Arunachal Pradesh Home Guards Ordinance, 2006 (No. 2 of 2006) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken, as the case may be, under the corresponding provisions of this Act.

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