

ACT NO. III OF 1917.

[PASSED BY THE INDIAN LEGISLATIVE COUNCIL.]

(Received the assent of the Governor General on the 28th February, 1917.)

An Act to constitute an Indian Defence Force,
and for other purposes.

WHEREAS it is necessary to constitute an Indian Defence Force, and compulsorily to enrol for service in that Force certain European British subjects; and

Whereas in the case of others, it is deemed sufficient for the present to take powers to enrol for such service only such persons as may offer themselves for enrolment; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Defence Force Act, 1917.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Pargannas, and applies also to European British subjects within the territories of any Native Prince or Chief in India.

(3) It shall remain in force during the continuance of the present war, and for a period of six months thereafter.

Short title,
extent and
duration.

Definitions.

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

“European British subject” means a European British subject as defined in the Code of Criminal Procedure, 1898, and shall, for the purposes of this Act, be deemed to include every person who, before the third day of March, 1917, has filled up, signed and lodged Form A with the Registration Authority under

V of 1898.

I of 1917. under the Registration Ordinance, 1917, and also every person who at the commencement of this Act is a member of a corps of volunteers constituted under the Indian Volunteers Act, 1869;

XX of 1869.

“Prescribed” means prescribed by rules made under this Act.

3. Every male European British subject who, on the first day of February, 1917, was ordinarily resident in India or thereafter becomes so resident, and who for the time being has attained the age of eighteen years and has not attained the age of forty-one years, and who is not within the exceptions set out in the Schedule to this Act, shall be deemed to be enrolled for general military service within the meaning of this Act:

Obligation of general military service.

Provided that, if any person referred to in this section whilst engaged in actual military employment, of which fact the Commander-in-Chief in India shall be the sole judge, attains the age of forty-one years, such person shall continue to serve for such additional period not exceeding one year as the prescribed military authority may direct.

4. Every male European British subject who, on the first day of February, 1917, was ordinarily resident in India, or thereafter becomes so resident, and who for the time being has attained the age of forty-one years but has not attained the age of fifty years, and who is not within the exceptions set out in the Schedule to this Act, shall be deemed to be enrolled for local military service within the meaning of this Act.

Obligation of local military service.

5. Every male European British subject who, on the first day of February, 1917, was ordinarily resident in India, or thereafter becomes so resident, and for the time being has attained the age of sixteen years but has not attained the age of eighteen years, shall be deemed to be enrolled for local military service, but shall only be liable to such military training as may be provided for by regulations made under this Act, and shall not be liable to any other form of military service.

Obligation of local military service and liability to military training.

6. Every

Obligation on persons enrolled for military service.

6. Every person deemed to be enrolled for military service, whether local or general, shall, as from the commencement of this Act, be deemed to be enrolled in the Indian Defence Force, and may be appointed to such corps or unit thereof as he may thereafter be assigned to, and shall, if he is a person deemed to be enrolled for general military service, be liable to serve in any part of India.

Obligation on persons enrolled for local military service.

7. Every person deemed to be enrolled for local military service shall be subject to any rules and regulations relating to that service which may be made under this Act :

Provided that no such rule or regulation shall require any such person to serve outside the limits of the prescribed local area.

Obligation on persons enrolled for general military service.

8. (1) Every person deemed to be enrolled for general military service shall be subject to any rules and regulations relating to that service which may be made under this Act.

(2) Every such person, when called out in the prescribed manner for general military service, shall be subject to the provisions of the Army Act and any orders or regulations made thereunder, whereupon the said Act, orders and regulations shall apply to him as if the same were enacted in this Act, and as if such person held the same rank in the Army as he holds for the time being in the Indian Defence Force. ^{44 & 45 Vict., c. 58.}

Determination of disputes as to residence and age.

9. If any question arises, with reference to this Act, whether any person is a European British subject within the meaning of this Act, or is "ordinarily resident" in British India, or is within the exceptions set out in the Schedule or as to the age of any person, the prescribed authority, or a person authorised in this behalf in writing by that authority, shall apply to the District Magistrate or to an officer specially empowered in this behalf by the Local Government, in the district or local area in which the person to whom the dispute relates is for the time being, and such Magistrate or other officer after hearing such person or giving him a reasonable opportunity of being heard, shall

shall summarily determine the question, and the decision of such Magistrate or other officer shall be final for all the purposes of this Act :

I of 1917.

Provided that if any question referred to in this section has been decided in accordance with the procedure provided in the Registration Ordinance, 1917, such decision shall be deemed to be a decision under this section of this Act.

10. If any person who is deemed to be enrolled for military service, whether local or general, disobeys any notice or order calling him out for such service, any District or Chief Presidency Magistrate may, on the application of the prescribed authority, or of a person authorized in this behalf in writing by that authority, cause such person to be arrested and brought before him, and if the Magistrate is satisfied that he is a person to whom section 3, 4 or 5 of this Act applies, and who has been called out for such service, the Magistrate without prejudice to any penalty which such person may have incurred shall make over such person to the custody of the military authorities.

Arrest of persons under obligation for military service.

11. (1) Application may be made to the prescribed authority by, or (subject to rules made under this Act) in respect of, any person referred to in section 3, 4 or 5, for the issue to him of a certificate of exemption under the provisions of this Act on any of the following grounds, namely:—

Certificate of exemption.

- (a) that it is expedient in the national interest that he should instead of being employed in military service be engaged in other work; or
- (b) if he is being educated or trained for any work that it is expedient in the national interest that he should continue to be so educated or trained; or
- (c) ill-health or infirmity;

and the prescribed authority, if it considers the grounds of the application established, shall grant such a certificate.

(2) The Governor General in Council may also, by order in writing, direct the issue to such persons

or

or class of persons, as he thinks fit, of certificates of exemption if he is satisfied that such a course is desirable in the national interest.

(3) Any certificate of exemption may be absolute, conditional, or temporary, and may be renewed, varied or withdrawn at any time by the authority which granted it, and may provide that a person liable to general military service shall perform local military service :

Provided that every conditional or temporary certificate shall state the conditions under which or the period for which it is granted.

(4) If, for the purpose of obtaining exemption for himself or any other person, or for the purpose of obtaining the renewal, variation, or withdrawal of a certificate, any person makes a false statement or false representation, to any authority under this section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

Enrolment of persons other than European British subjects in the Indian Defence Force for general military service.

12. (1) The Governor General in Council may, by notification in the Gazette of India, constitute, in any local area which he may specify in the notification, corps or units for the enrolment in the Indian Defence Force of persons other than European British subjects, who satisfy the prescribed conditions and, within six months from the commencement of this Act, offer themselves for enrolment for general military service, and such persons may be enrolled accordingly in the prescribed manner.

(2) Every person enrolled in a corps or unit constituted under sub-section (1) shall be liable to serve in any part of India, shall be subject to all rules and regulations that may be made under this Act relating to his corps or unit, and shall not quit such corps or unit except in the prescribed manner.

(3) Every such person shall, when called out in the prescribed manner for general military service, be subject to the Indian Army Act, 1911, and the rules made thereunder, whereupon the said Act and rules shall apply to him as if he held the same rank

in

in the Indian Army as he holds for the time being in the Indian Defence Force.

13. (1) The Governor General in Council may ^{Power to} make rules to carry out the purposes of this Act. _{make rules.}

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe authorities for the purposes of sections 9 and 10;
- (b) constitute authorities and prescribe the procedure of such authorities for the purpose of considering applications for exemption from military service;
- (c) prescribe the time within which, and the form in which, such application may be made, and the persons other than the person to be exempted by whom it may be made;
- (d) prescribe the conditions subject to which persons other than European British subjects should be permitted to offer themselves for general military service;
- (e) prescribe the military or other obligations to which persons or any class of persons enrolled or deemed to be enrolled under this Act shall respectively be liable; constitute or specify Courts for the trial and punishment of breaches of such obligations; prescribe the procedure to be followed by such Courts; and provide for the enforcement or carrying out of the orders or sentences of such Courts;
- (f) provide for the medical examination of persons liable to general military service;
- (g) provide for the calling out and all purposes ancillary thereto of persons or any class of persons liable to general military service, and constitute authorities for the purpose of assisting in the selection of persons to be so called out; and
- (h) provide for any matter in this Act directed to be prescribed.

(3) Rules

(3) Rules made under this section may provide that any contravention thereof or of any order or notice issued under the authority of any such rule shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

(4) All rules made under this Act shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

Summary
and minor
punishments.

14. (1) The Commander-in-Chief in India may, subject to the control of the Governor General in Council, specify the summary and minor punishments for breach of any rule made under this Act to which persons enrolled or deemed to be enrolled under this Act shall be liable, without the intervention of a Court, and the officer or officers by whom and the extent to which such summary and minor punishments may be awarded.

(2) No punishment exceeding in severity imprisonment in military custody for a period of seven days shall be imposed as a summary punishment, and no punishment involving any kind of imprisonment shall be imposed as a minor punishment.

Power to
make regula-
tions.

15. (1) The Commander-in-Chief in India may make regulations providing generally for all details connected with the organization, personnel, duties, and military training of any persons liable to military service or training under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may—

- (a) specify the units, whether of regular troops or any other military force with which any person or class of persons enrolled or deemed to be enrolled under this Act shall serve or undergo military training, or constitute special military units for that purpose;
- (b) specify the courses of training or instruction to be followed by any person or class of persons liable to military service or training under this Act; and
- (c) provide

(c) provide for and regulate the remuneration, allowances, gratuities or compensation (if any) to be paid to any person or class of persons undergoing military service or training under this Act or to their dependants.

(3) Regulations made under this section may provide that any contravention thereof, or of any order or notice issued under the authority of any such regulation, shall be punishable with fine which may extend to five hundred rupees.

16. Nothing in this Act shall apply to any person confined in a prison or lunatic asylum.

Act not to apply to persons confined in a prison or lunatic asylum.

17. The Governor General in Council may disband any corps or unit constituted under this Act.

Power to disband corps or unit.

I of 1917.

18. The provisions of the Registration Ordinance, 1917, shall be in force during the continuance of this Act, and shall have effect as if they had been enacted in this Act.

Provisions of Registration Ordinance, 1917, continued in force.

Provided that the following amendments shall be made therein, namely:—

(1) In section 3, sub-section (1), of the said Ordinance, for the words "had not attained the age of fifty years on the first day of February, 1917," the words "who for the time being has not attained the age of fifty years," shall be substituted.

(2) In Schedule II of the said Ordinance in entry (1) after the word "forces," the words "or of the Royal Indian Marine Service" shall be inserted, and in entry (2) for the word "British," the word "religious" shall be substituted.

THE SCHEDULE.

[See sections 3 and 4.]

Exceptions.

(1) Members of His Majesty's Naval and Military Forces or of the Royal Indian Marine Service other than

than Volunteers enrolled under the Indian Volunteers' Act, 1869.

XX of 1869.

(2) Persons in Holy Orders or regular Ministers of any religious denomination.

(3) Persons who have at any time since the beginning of the war been prisoners of war, captured or interned by the enemy, or have been released or exchanged.