

THE INDIAN RESERVE FORCES ACT, 1888

(ACT No. IV OF 1888)

AN ACT TO REGULATE THE INDIAN RESERVE FORCES

Sections

WHEREAS it is expedient to provide for the government, discipline and regulation of the Indian Reserve Forces; It is hereby enacted as follows:—

1. Title and commencement.—(1) This Act may be called the Indian Reserve Forces Act, 1888; and

(2) It shall come into forces on such day as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. Division of Reserve Forces into Regular and Supplementary Reserves.—The Indian Reserve Forces shall consist of the Regular Reserve and the Supplementary Reserve.

3. Locality of service of Reserves.—A person belonging to the Indian Reserve Forces shall be liable to serve beyond the limits of India as well as within those limits.

4. Power to make rules for regulation of Reserve Forces.—The Central Government may make rules and orders for the government, discipline and regulation of the Indian Reserve Forces.

5. Liability of Reserve Forces to military law.—Subject to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve forces shall as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to the Regular Army.

6. Punishment of certain offences by persons belonging to Reserve Forces.—(1) If a person belonging to the Indian Reserve Forces—

(a) when required by or in pursuance of any rule or order under this Act to attend at any place fails without reasonable excuse to attend in accordance with such requirement, or

(b) fails without reasonable excuse to comply with any such rule or order, or

(c) fraudulently obtains any pay or other sum contrary to any such rule or order

he shall be liable—

(i) on conviction by a Court-martial to such punishment other than death (imprisonment for life) or imprisonment for a term exceeding one year as such Court is by the Army Act 1950, empowered to award or

- (ii) on conviction by a Presidency Magistrate or a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirements, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section, may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly and in the other, or be transferred for one description of custody to the other.

7.Reinstatement in civil employ of persons belonging to Reserve Forces on termination of Period of training, muster or army service.—(1) If a person belonging to the Indian Reserve Forces is, during the period of his employment under an employer, called up for training, muster or army, service in pursuance of his liability under any rule or order under this Act, it shall be the duty of every such employer to reinstate the person in his employment on the termination of the period of his training, muster or army service in an occupation and under conditions not less favorable to him than those which would have been applicable to him had his employment not been so interrupted.

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the authority prescribed in this behalf by rules made under this Act, and that authority shall after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed in the said rules, pass an order—

- (a) exempting the employer from the provision of this section, or
- (b) requiring the employer to re-employ such person on such terms, as the authority thinks suitable, or
- (c) requiring the employer to pay to such person by way of compensation for failure or inability to re-employ a sum not exceeding an amount equal to six months remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defense for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period of his training, muster or army service.

(4) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually called up for training, muster or army service, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub section, and such intention shall be presumed until the contrary is proved, if the termination takes place after the issue of orders calling him up for training, muster or army service under this Act.

8.Preservation of certain rights of persons belonging to Reserve Forces when called up for training, muster or army service.—When any person belonging to the Indian Reserve Forces and called up for training, muster or army service in pursuance of his liability under any rule or order under this Act has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in training, muster or army service and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed by rules made under this Act.

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The following rules and orders have been made by the Governor General in Council the government, discipline and regulation of the Indian Reserve Forces under section 4 of the Indian Reserve Forces Act, 1888:—

1. These rules and orders may be called the Indian Reserve Forces Rules, 1925.

2. In these rules and orders "Commanding Officer" means the officer in command of reserve centre or of the corps or portion of a corps to which a reservist is attached for training or muster :

Provided that in the case of a reservist of the Indian Hospital Corps, who is attached for training or muster to a unit of his corps, his Commanding Officer will be :—

(a) When the reservist is not called up for training, or muster, the Officer in charge, Indian Hospital Corps Records.

(b) When the reservist is called up for training, or muster, the Commanding Officer of the unit to which he is attached for such a training, or muster.

3A. The reserve shall consist of :—

- (a) Junior Commissioned officers who have been or may be transferred to the reserve either with their own consent or in pursuance of, the conditions of their Commission. (SRO 291/62)
- (b) Viceroy's Commissioned officers commissioned under Rules 4A and 4B.
- (c) Indian Warrant Officers appointed under Rule 4B.
- (d) Persons enrolled under the Indian Army Act, 1911, and transferred to the Reserve either with their own consent or in pursuance of the conditions of their enrolment.
- (e) Persons enrolled under the said Act for service in the reserve.

3B. Every reservist other than a reservist of the Indian Supplementary Reserve, shall be subject to military law until duly discharged or dismissed.

3C. A reservist of the Indian Supplementary Reserve shall be subject to military law only when called out for service or when carrying out the annual trade test.

4A. (a) Commissions as Risaldars or Jemadars in the Reserve of the Indian Army Service Corps may be granted to gentlemen of influence who being not more than 30 years of age are pronounced medically fit for service.

(b) Such Viceroy's Commissioned officers will ordinarily be retired on attaining 45 years of age.

(c) When called out for army service or for training, such Viceroy's Commissioned officers will, for the purposes of pay, allowances and other concessions in cash and kind, be on the same footing as Viceroy's Commissioned officers of corresponding rank serving of the active list in A. T. units with the exception that they will not be entitled to clothing allowance for the period of training in peace. For the purposes of disability and family pensions they will be governed by the same rules as are applicable to the corresponding ranks mentioned above.

(d) Viceroy's Commissioned officers of the Reserve will rank among themselves according to the dates of their commissions and, when employed on army service, will rank with Viceroy's Commissioned officers of corresponding rank in the Indian army, but as juniors of each rank, Viceroy's Commissioned officers commissioned under clause (a) will exercise no military command except over persons belonging or attached to the Indian Army Service Corps.

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(e) Commissions already granted under the provisions of Military Department Notification No. 112, dated the 10th February 1905, shall be deemed to have been granted under the provisions of this rule.

4B. (a) Gentlemen possessing the requisite medical and other qualifications may be granted commissions as leaders or higher commissioned rank, or may be appointed as warrant officers, in the Indian Medical Department Sub-Assistant Surgeon Reserve.

(b) Such Viceroy's Commissioned officers and warrant officers will serve for a period of five years, which may be further extended by periods of two years at a time, until attaining the age of 55 years.

(c) When called up for periodical training such Viceroy's Commissioned officers and warrant officers will receive pay at the minimum of their rank admissible to regular military sub-assistant surgeons, and when called out for army service they will receive pay at the minimum of their rank as admissible to regular military sub-assistant surgeons, with increments as admissible for each year's completed army service. Pension will be drawn in addition by pensioned military sub-assistant surgeons. For the purpose of disability and family pensions they will be under the same rules as regular military sub-assistant surgeons. A gratuity at the rate of one month's pay for each year's army service, based on the rate of pay drawn at the time of release, will be admissible on conclusion of army service.

(d) Viceroy's Commissioned officers and warrant officers of the I.M.D. S.A.S. Reserve will rank with regular Viceroy's Commissioned officers and warrant officers of the sub-assistant surgeon branch of the I.M.D. as follows:—

Viceroy's Commissioned officers—according to the date of joining the Reserve as Viceroy's Commissioned officers, or from the date of promotion to Viceroy's Commissioned officer if promoted on a date subsequent to joining the Reserve.

Warrant officers—from the date of appointment to the Reserve.

(e) Appointments to the I.M.D., S.A.S. Reserve already made shall be deemed to have been made under the provisions of this rule.

5A. Every reservist other than a reservist of the Indian Medical Department Sub-Assistant Surgeon Reserve shall come up for service, training or muster, when required to do so by order of his commanding Officer; or for service when required to do so by order of the COMMANDER-IN-CHIEF in India or of any authority empowered by him in this behalf, and shall for this purpose attend at any place specified in such order.

5B. Every reservist of the Indian Medical Department Sub-Assistant Surgeon Reserve shall come up for training when required to do so by order of his commanding officer, or for service when required to do so by a notification in the Gazette of India, and shall for this purpose attend at any place specified in such order or notifications.

NOTE

A reservist in Civil Government employ will, when called for periodical training, receive military pay and allowances. He will also receive the excess, if any, of his civil pay over his military pay, provided that this concession is specifically sanctioned by the Department of the Government of India affected, or its attached and subordinate offices, or by the local Government concerned in whose employ the reservist is serving in his civil capacity, and

provided also that (except where his civil pay is also met from the Army Estimates) the extra expenditure involved does not constitute a charge against the Army Estimates. A civil sub-assistant surgeon belonging to the I. M. D, S. A. S. Reserve will, when called up for periodical training, receive civil pay in addition to military pay, Civil pay will not be admissible in addition to military pay for periods or mobilized army service.

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The periods spent in training and on the journey to and from the place of training will be treated as duty for purposes of civil leave, pension and increments of civil pay.

6. Every reservist shall inform his commanding officer of his address, and shall, on any change of such address, at once inform the said commanding officer of such change.

7. No reservist shall leave India except with the permission of his commanding officer, and in the case of Indian Medical Department Sub-Assistant Surgeon Reserve, with the permission of the A. G. in India. For the purpose of this Rule, Nepal shall, as regards Gurkha reservists, be deemed to be included in the term "India" except in the case of Gurkha Reservists of the ambulance and nursing sections of the Indian Hospital Corps.

8. A reservist who has, for any reason, failed to attend at any place when required to do so in pursuance of Rule 5-A or 5-B may be required by his commanding officer to attend for medical examination at the nearest military station to his home, and if so required, shall attend at such military station on the date appointed for such examination.

9. Notwithstanding anything contained in Section 126 of the Indian Army Act, 1911, it shall not be necessary to assemble a Court of Inquiry under that section merely because a reservist has failed to attend when required to do so in pursuance of Rule 5-A, 5-B or 8. Such a Court of inquiry may, however, at the discretion of the commanding officer of the reservist, be assembled in such a case.

10. A reservist who fails to attend at any place on the date on which required to do so in pursuance of Rule 5-A, or 5-B, shall be liable, at the discretion of his commanding officer, to forfeit all or a portion of arrears of pay and allowances due to him. In determining the amount of such forfeiture regard shall be had to the length of the reservist's absence and to the cause, whether reasonable or otherwise, to which it is due. The absence continues until the reservist is apprehended or satisfies his commanding officer by surrender or otherwise that he is available to fulfill his obligations as a reservist.

11. (a) A reservist, who is discharged at his own request at any time within three calendar months from the date fixed for the next training or muster, shall forfeit all pay and allowances due to him with effect from the first day of the third calendar month preceding the date of such training or muster, provided that if a reservist is discharged on obtaining permanent civil employment under the central or a provincial government, he shall be eligible for pay and allowances up to the date of discharge.

(b) A reservist who is discharged for misconduct shall forfeit pay and allowances due to him with effect from the date of misconduct or the first day of the third calendar month preceding the date fixed for the next training or muster whichever is earlier.

12. The certificate referred to in clause (2) of Section 6 of the Indian Reserve Forces Act, 1888 may be signed by the commanding officer of the reservist concerned, or, in respect of a reservist who fails to attend for medical inspection when required to do so in pursuance of Rule 8, by the commanding officer of the military station at which such reservist was required to attend.

13. When a person subject to the Indian Army Act, 1911, is to be transferred to the Reserve, his commanding officer shall, previous to such transfer, explain or cause to be explained to him the obligations and restrictions imposed by Rules 5-A to 8 and the forfeiture which may be incurred under Rules 10 and 11. When a person not subject to the said Act is enrolled thereunder for service in a reserve establishment, the officer enrolling him shall explain the aforesaid obligations, restrictions and forfeiture.

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14. The authority referred to in the proviso to sub-section (1) of section 7 shall be the chief officer in charge of the revenue administration of the district (whether known as Collector or by any other designation) within the local limits of whose jurisdiction the person claiming reinstatement was employed immediately before he was called up for training, muster or any service under these rules (SRO 400/64).

[Nature of inquiry by prescribed authority.]

15. Where a reference is made by any party under the proviso to sub-section (I) of section 7 to the authority referred to in Rule 14, a copy of such reference shall be served upon the opposite party and the said authority shall decide the matter after giving both the parties a reasonable opportunity of being heard and after making such further inquiry, if any, as it thinks fit.

[Prescribed rights under Section 8.]

16. When any reservist is called up for training, muster or Army service under these Rules-

- (a) he may, at his option, continue to subscribe to any provident or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment which he relinquished immediately before he was called up for training, muster or Army service, at such rates as were applicable to him under the rules of such fund or scheme ;
- (b) the employer by whom such reservist was employed shall continue to credit his account in the fund or scheme with the amount subscribed and the interest on the amount in such account in accordance with the rules of the fund of scheme :
- (c) such reservist may, if the rule of the fund or scheme so permit and in accordance with such rules, withdraw sums from the amount standing at his credit in the fund or scheme; and

(d) for the purpose of calculating the amount of contribution or withdrawal admissible, such reservist's salary shall be deemed to be the salary which he would have received had he not been so called up.