

The Criminal Law Amendment Act, 1938

February 16, 2013

The Criminal Law (Amendment) Act, 2013

(Act 20 of 1938)

[The Act printed here is as on 31-1-1993.]

14th September, 1938

STATEMENT OF OBJECTS AND REASONS

A large number of public speeches designed to dissuade persons from enlisting in the Defence Forces or, in the alternative, to incite would be recruits to commit acts of mutiny or insubordination after joining those Forces have come to notice during the past 18 months. The object of the speakers is clearly not the spread of pacifism, but to dissuade would be recruits from taking part in any war in which the British Empire may become engaged. The Bill is designed to penalise these activities.— Gazette of India, 13-8-1938, Part V, p. 276.

ACT HOW AFFECTED BY SUBSEQUENT LEGISLATION

- Amended by Act 3 of 1951.
- Adapted by A.L.O., 1950.
- Extended by Acts 59 of 1949; 30 of 1950; Regns. 6 of 1963; 7 of 1963; and 8 of 1965.
- Extended in Assam by Act 7 of 1955; in Orissa by Ori. Regn. 1 of 1963.
- Extended in Bombay by Act 4 of 1950.

WHEREAS it is expedient to supplement the criminal law by providing for the punishment of certain acts prejudicial to the recruitment of persons to serve, in and to the discipline of,¹[the Armed Forces of the Union]; It is hereby enacted as follows :

2. Dissuasion from enlistment and instigation to mutiny or insubordination after enlistment

Whoever-

(a) With intent to affect adversely the recruitment of persons to serve in the Military, Naval or Air Forces of ¹[the Union], willfully dissuades or attempts to dissuade the public or any person from entering any such Forces; or

(b) without dissuading or attempting to dissuade any person from entering such Forces, instigates the public or any person to do, after entering any such Force, anything which is an offence punishable as mutiny or insubordination under section 27 of the Indian Army Act, 1911, or sections 10, 12 and 14 to 17 inclusive of ²[* * *] the Indian Navy (Discipline) Act, 1934 or sections 35 to 37 inclusive of the Indian Air Force Act, 1932, as the case may be, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

No person shall be prosecuted for any offence under this Act except with the previous sanction of the ³[State Government] ⁴



Exception 1.-

The provisions of clause (a) of this section do not extend to comments on or criticism of the policy of Government in connection with the Military, Naval or Air Forces, made in good faith without any intention of dissuading from enlistment.

Exception II.-

The provisions of clause (a) of this section do not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given, or for the benefit of any member of his family or of any of his dependants.

1. Substituted for "His Majesty", by A.L.O., 1950'

2. Words "the Naval Discipline Act as applied to the Indian Navy by" were omitted by A.L.O., 1950.

3. Substituted for 'Provincial Government' by A.L.O., 1950.

4. In pursuance of clause (1) of Art. 239 of the Constitution, the President has directed that the Chief Commissioners of Delhi, Ajmer and Coorg shall, subject to the control of the Central Government and until further orders, exercise the powers of the State Government under S. 2 of the Criminal Law Amendment Act, 1938 (20 of 1938) in the States of Delhi, Ajmer and Coorg respectively. See S.R.O.2416, D/-20-7-1954, published in Gaz. of Ind., 24-7-1954 , Pt. II, S. 3, page 1806. Ajmer and Coorg have now merged with the States of Rajasthan and Mysore respectively.

The Criminal Law (Amendment) Act, 2013

