

# The Territorial Army Act, 1948

February 25, 2013

## Preamble

**ACT No.56 OF 1948**

**[AS ON 1955]**

**[10th September, 1948.]**

An Act to provide for the constitution of a Territorial Army

WHEREAS it is expedient to provide for the constitution of a Territorial Army;

It is hereby enacted as follows :—

## Section 1. Short title, extent and application

(1) This Act may be called the Territorial Army Act, 1948.

(2) It extends to the whole of India<sup>1</sup> and applies to all classes of persons in the Territorial Army, wherever they may be.

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**1. The words " except the State of Hyderabad " ins.by the A.O.1950, were omitted by Act 3 of 1951, s.3 and Sch.**

## Section 2. Definitions

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

(a) " Enrolled" means enrolled in the Territorial Army under the provisions of this Act;

(b) " Officer" means an officer of any of the two classes specified in section 5 ;

(c) " Non-commissioned officer" means a person holding a non-commissioned rank in the Territorial Army, and includes an acting non-commissioned officer ;

(d) " Prescribed" means prescribed by rules made under this Act ;

(e) The expression " Regular Army " means officers and other ranks who, by their commission, terms of enrolment or otherwise, are liable to render continuously for a term military service under <sup>1</sup>[the Army Act, 1950] ; and

(f) All words and expressions used herein and defined in <sup>1</sup>[the Army Act,1950], and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Act.

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**1. Subs.by Act 3 of 1951, s.3 and Sch., for "the Indian Army Act, 1911"**

## Section 3. Constitution of the Territorial Army

(1) There shall be raised and maintained in the manner hereinafter provided an army to be designated the Territorial Army.

(2) The Central Government may constitute such number of units of the Territorial Army as it thinks fit and may disband or reconstitute any unit so constituted.

## Section 4. Personnel of the Territorial Army

There shall be the following classes of persons in the Territorial Army, namely,—

- (a) Officers ; and
- (b) Enrolled persons.

## Section 5. Officers

Officers in the Territorial Army shall be of the two following classes, namely,—

(a) Officers holding commissions in the Territorial Army granted by the President with designations of rank corresponding to those of Indian commissioned officers <sup>1</sup>[of the Regular Army] ; and

(b) Junior commissioned officers holding commissions in the Territorial Army granted by the President with designations of rank corresponding to those of <sup>2</sup>[junior commissioned officers of the Regular Army].

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**1. Ins.by the A.O.1950.**

**2. Subs. by the A.O.1950 for " Viceroy's commissioned officers ".**

## Section 6. Persons eligible for enrolment

<sup>1</sup>[Any person who is a citizen of India] may offer himself for enrolment in the Territorial Army, and may, if he satisfies the prescribed conditions, be enrolled for such period and subject to such conditions as may be prescribed.

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**1. Subs.by the A.O.1950 for " Any person domiciled in India ".**



## Section 7. Liability for military service

(1) No officer or enrolled person shall be required to perform military service beyond the limits of India save under a general or special order of the Central Government.

(2) Subject to the provisions of sub-section (1), every officer or enrolled person shall, subject to such conditions as may be prescribed, be bound to serve in any unit of the Territorial Army to which he is for the time being attached, and shall be subject to all the rules made under this Act in relation to such unit.

(3) Every officer or enrolled person shall be liable to perform military service,—

(a) When called out in the prescribed manner to act in support of the civil power or to provide essential guards;

(b) When embodied in the prescribed manner for training or for supporting or supplementing the regular forces ; and

(c) When attached to any regular forces either at his own request or under the prescribed conditions.

## Section 7A. Reinstatement in civil employ of persons required to perform military service

<sup>1</sup>[Reinstatement in civil employ of persons required to perform military service. (1) It shall be the duty of every employer by whom a person who is required to perform military service under section 7 was employed to reinstate him in his employment on the termination of the military service in an occupation and under conditions not less favourable 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 prescribed authority 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, pass an order—

(a) Exempting the employer from the provisions of this section, or

(b) Requiring him to re-employ such person on such terms as he thinks suitable, or

(c) Requiring him 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 defence 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 his military 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 subsection shall attach to an employer who, before such person is actually required to perform military service under section 7, 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 requiring him to perform military service under this Act ]

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**1. Ins.by Act 33 of 1952, s.2.**

## Section 7B. Preservation of certain rights of persons required to perform military service

<sup>1</sup>[Preservation of certain rights of persons required to perform military service. When any person required to perform military service under section 7 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 military 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.]

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**1. Ins.by Act 33 of 1952, s.2**

## Section 8. Discharge

Every person enrolled under this Act shall be entitled to receive his discharge from the Territorial Army on the expiration of the period for which he was enrolled and any such person may, prior to the expiration of that period, be discharged from the said army by such authority and subject to such conditions as may be prescribed :

Provided that no enrolled person who is for the time being engaged in military service under the provisions of this Act, shall be entitled to receive his discharge before the termination of such service.

## Section 9. Application of the Army Act, 1950

(1) Every officer, when doing duty as such officer, and every enrolled person when called out or embodied or attached to <sup>1</sup>[the Regular Army], shall, subject to such adaptations and modifications as may be made therein by the Central Government by notification in the Official Gazette, be subject to the provisions of <sup>2</sup>[the Army Act, 1950], and the rules or regulations made thereunder in the same manner and to the same extent as if such officer or enrolled person held the same rank in the Regular Army as he holds for the time being in the Territorial Army..

(2) When an offence punishable under <sup>2</sup>[the Army Act, 1950], has been committed by any person whilst subject to that Act under the provisions of sub-section (1) such person may be taken into and kept in military custody and tried and punished for such offence as aforesaid in



like manner as he might have been taken into and kept in military custody, tried and punished if he had continued to be so subject.

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**1. Subs. by the A.O.1950 for " any regular forces ".**

**2. Subs.by Act 3 of 1951, s.3 and Sch., for " the Indian Army Act, 1911 ".**

## Section 10. Summary trial and punishment

In addition to, or in substitution for, any punishment or punishments to which he may be liable under <sup>1</sup>[the Army Act, 1950], any enrolled person may be punished either by a criminal Court or summarily by order of the prescribed authority for any offence under that Act or for the contravention of any of the provisions of this Act or of any rules made thereunder with fine which may extend to one hundred rupees to be recovered in such manner and by such authority as may be prescribed :

Provided that no fine shall be summarily inflicted by order of the prescribed authority in any case in which the accused claims to be tried by a criminal Court.

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**1. Subs.by Act 3 of 1951, s.3 and Sch., for " the Indian Army Act, 1911 ".**

## Section 11. Jurisdiction to try offences

No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence made punishable by or under this Act.

## Section 12. Presumption as to certain documents

Where an enrolled person is required by or in pursuance of any rule made under this Act to attend at any place, a certificate purporting to be signed by the prescribed officer stating that the person so required to attend failed to do so in accordance with such requirement shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

## Section 13. Persons subject to this Act to be deemed part of regular forces for certain purposes

For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, 1898, all officers, non-commissioned officers and other enrolled persons who have been attached to a unit shall be deemed to be officers, non-commissioned officers and soldiers for respectively of the Regular Army.

## Section 14. Power to make rules

(1) The Central Government may make rules to carry out the purposes of this Act.

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

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(a) Prescribe the manner in which, and the period for which and the conditions subject to which any person may be enrolled under this Act ;

(b) Prescribe the manner in which and the conditions subject to which officers and enrolled persons may be called out for service, or embodied for training or for supporting or for supplementing the Regular Army or attached to <sup>1</sup>[the Regular Army] ;

(c) Prescribe preliminary and periodical military training, compulsory and voluntary, for any enrolled person and provide for the embodiment of any unit for that purpose ;

(d) Define the manner in which and the conditions under which any enrolled person may be excused from training ;

<sup>2</sup>[(dd) specify the authority for the purpose of the proviso to subsection (1) of section 7A and the manner in which any inquiry may be held by him ; (ddd) define the rights under section 7B ;]

(e) Prescribe the authorities by which and the conditions subject to which enrolled persons may be discharged under section 8 ;

(f) Prescribe the authorities by which offences under this Act may be punished and the fine inflicted may be recovered ;

(g) Prescribe the officers by whom certificates may be signed under section 12 ;

(h) Generally provide for any other matter which under this Act is to be or may be prescribed.

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**1. Subs.by the A.O.1950, for " any regular forces ".**

**2. Ins.by Act 33 of 1952, s.3**

## Section 15. Repeal of Act XLVIII of 1920

Rep.by the Repealing and Amending Act, 1950 (35 of 1950), s.2 and Sc




