

THE WEST BENGAL HOME GUARDS ACT, 1962.

AMENDED

. . West Ben. Act XII or 1990.

[14th December, 1962.]An

Act to provide for the constitution of Home Guards in West Bengal.

WHEREAS it is necessary to provide for the constitution of Home Guards in West Bengal;

It is hereby enacted in the Thirteenth Year of the Republic of India, by the Legislature of West Bengal, as follows:

1. This Act may be called the West Bengal Home Guards Act, 1962.
(2) It extends to the whole of West Bengal.

2. In [his Act, unless there is anything repugnant in the subject or context],

Short title and client.

(1) "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866 together with the suburbs of the town of Calcutta as defined by notification under section 1 or the Calcutta Suburban Police Act, 1866;

Definition.

(1 A) "Commandant General, Home Guards" means the officer appointed as such under section 2A;

(2) "district" means a *Zila* referred to in the Bengal Districts Act, 1864, but does not, in the case of the district of 24-Parganas, include any area comprised in the suburbs of the town of Calcutta as defined by notification under section 1 or the Calcutta Suburban Police Act, 1866.

(3) "Home Guard" means a Home Guard constituted under section 3.

2A. The State Government may, by notification in the *Official Gazette*, appoint an officer to be the Commandant General, Home Guards, on such terms and conditions as the State Government may determine.

2B. The Commissioner of Police, Calcutta, shall be the *ex-officio* Additional Commandant General, Home Guards.

Appointment of Commandant General, Home Guards,

2C. The Superintendent of Police in a district shall, for the purposes of this Act, be under the Commandant General, Home Guards.

Commissioner or Police, Calcutta, to be *ex-officio*

For the Statement of Objects and Reasons and the Financial Memorandum, see the *Calcutta Gazette*, Extraordinary of the 14th November, 1962, Part IV A, page 3451; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of the West Bengal Legislative Assembly held on the 21st November, 1962; and for proceedings of the West Bengal Legislative Council, see the proceedings of the meeting of that Council held on the 22nd November, 1962.

Additional Commandant General, Home Guards.

-Clause (1 A) was inserted by s. 2 of the West Bengal Home Guards (Amendment) Act, 1990 (West Ben. Act XII or 1990).

Superintendent of Police to be under the control of Commandant General, Home Guards,

¹Amended by s. 1 of the West Bengal Home Guards (Amendment) Act, 1990.

Ben. Act IV or 1866. Ben. Act 11 of 1866.

Ben. Act IV of 1866-1

(Sections 3-6.)

Constitution
of Home
Guards.

3. [The Superintendent of Police in a district, upon such directions as may be given by the Commandant General, Home Guards, or the Commissioner of Police and *ex-officio* Additional Commandant General, Home Guards, in Calcutta, may constitute for the district or for Calcutta, as the case may be, a body of volunteers] to be called the Home Guards, the members of which shall discharge such functions in relation to the protection of persons, the security of property or the public safety as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder.

Appointment
of members.

4. [The Superintendent of Police in a district, upon such directions as may be given by the Commandant General, Home Guards, or the Commissioner of Police and *ex-officio* Additional Commandant General, Home Guards, in Calcutta, may enrol as volunteers] of the Home Guard so many persons, who are fit and willing to serve as such, as he is authorised by the State Government to appoint and may appoint any such member to any office of command in the Home Guard.

Functions of
Home Guards.

5. The Superintendent of Police in a district -[subject to the approval of the Commandant General, Home Guards,] or the Commissioner of Police [and *ex-officio* Additional Commandant General, Home Guards,] in Calcutta may at any time call upon [volunteers] of the Home Guard for training or to discharge any of the functions assigned to the Home Guard in accordance with the provisions of this Act and the rules made thereunder.

Powers,
protection
and control.

6. (1) A [volunteer] of the Home Guard when called out under section 5 shall have the same powers, privileges 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 [volunteer] of the Home Guard in respect of anything done or purporting to be done by him in the discharge of his functions as such [volunteer], except with the previous sanction in a district of the District Magistrate, or in Calcutta of the Commissioner or Police [and *ex-officio* Additional Commandant General, Home Guards],

The words within the square brackets were substituted for the words "The Superintendent of Police in a district or the Commissioner of Police in Calcutta may constitute for the district or Calcutta, as the case may be, a body" by s. 4 of the West Bengal Home Guards (Amendment) Act, 1990 (West Ben. Act XII of 1990).

The words within the square brackets were substituted for the words "The Superintendent of Police in a district or the Commissioner of Police in Calcutta may appoint as members" by s. 5, *ibid.*

The words within the square brackets were inserted by s. 6(1), *ibid.*

The words within the square brackets were inserted by s. 6(2), *ibid.*

The word within the square brackets was substituted for the word "member" by s. 6(3), *ibid.*

The word within the square brackets was substituted for the word "member" by s. 7(1), *ibid.*

The word within the square brackets was substituted for the word "member" by s. 7(2)(a), *ibid.*

XI of 1962.]

(Sections 7-10.)

7. The [volunteers] of the Home Guard when called out under section 5 directly in aid of the police force shall be under the control of the officers of such force, in such manner and to such extent as may be prescribed by rules made under section 9.

Control by officers of police force.

8. If any [volunteer] of a Home Guard, on being called out under section 5, without sufficient excuse neglects or refuses to obey such order or to discharge his functions [as such volunteer] or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction by a competent Court, be punishable with fine which may extend to fifty rupees.

Penally.

⁴8A. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in the Police Act, 1861 or the Calcutta Police Act, 1866 or in any other law for the time being in force.

Act to have overriding effect.

9. The State Government may make rules consistent with this Act providing for:

Rules.

(a) the exercise of control by officers of the police force over [volunteers] of the Home Guard when acting directly in aid of the police force;

the organisation, [enrolment], training, conditions of service, duties, discipline, arms, accoutrements and clothing of [volunteers] of the Home Guard and the manner in which they may be called out for service;

allowances, if any, payable to the [volunteers] of the Home Guard and the conditions subject to which such allowances may be paid;

(c) conferment on [volunteers] of the Home Guard of such powers exercisable by a police officer or such other person under any Central or State Act for the time being in force as the State

(d) Government may think fit; generally giving effect to the provisions of this Act.

The word within the square brackets was substituted for the word "members" by s. 8 of the West Bengal Home Guards (Amendment) Act, 1990 (West Ben. Act XII of 1990).

The word within the square brackets was substituted for the word "member" by s. 9(1), *ibid.*

The words within the square brackets were substituted for the word "as a member of the Home Guard" by s. 9(2), *ibid.*

⁴ See section 8A was inserted by s. II, *ibid.*

For the West Bengal Home Guards Rules, 1962, jn notification No. A 583-PL, dated the 13th November, 1962, published in the *Calcutta Gazette. Extraordinary* of 1962, Part 1, pages 3435-3438, as subsequently amended from time to time.

The word within the square brackets was substituted for the word "members" by s. 10(1) of the West Bengal Home Guards (Amendment) Act, 1990 (West Ben. Act XII of 1990).

The word within the square brackets was substituted for the word "appointment" by s. 10(2)(a), *ibid.*

"The word within the square brackets was substituted for the word "members" by s. 10(2)(b), *ibid.*

The word within the square brackets was substituted for the word "members" by s. 10(3), *ibid.*

"The word within the square brackets was substituted for the word "member;" by s. 10(4), *ibid.*

5 of 1861.
Ben. Act IV
of 1866.

■420

The West Bengal Home Guards Act, 1962.

[West Ben. Act
XI of 1962.]

(Section 10.)

Repeal and 10. (1) The West Bengal Home Guards Ordinance, 1962, is hereby savings.
repealed.

West Ben.
Ord. XI of
1962.

(2) Anything done or any action taken under the West Bengal Home Guards Ordinance, 1962, shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 11th day of November,

1962.