

## **Border Security Force Act, 1968**

### **Chapter VII - Security Force Courts**

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For the purposes of this Act there shall be three kinds of Security Force Courts, that is to say,--

- (a) General Security Force Courts;
  - (b) Petty Security Force Courts; and
  - (c) Summary Security Force Courts.
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#### **Section 65 - Power to convene a General Security Force Court**

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A General Security Force Court may be convened by the Central Government or the Director-General or by any officer empowered in this behalf by warrant of the Director-General.

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#### **Section 66 - Power to convene a Petty Security Force Court**

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A Petty Security Force Court may be convened by an officer having power to convene a General Security Force Court or by an officer empowered in this behalf by warrant of any such officer.

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#### **Section 67 - Contents of warrants issued under sections 65 and 66**

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A warrant, issued under section 65 or section 66 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

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#### **Section 68 - Composition of General Security Force Court**

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A General Security Force Court shall consist of not less than five officers, each of whom has held the post of Deputy Superintendent of Police for not less than three whole years and of whom not less than four are of a rank not below that of a confirmed Deputy Superintendent of Police.

Explanation.--For the purposes of this section and section 69 "Deputy Superintendent of Police" includes any post of a higher rank and any post declared by Central Government by notification to be an equivalent post as also any post higher in rank than the post so declared.

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#### **Section 69 - Composition of a Petty Security Force Court**

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A Petty Security Force Court shall consist of not less than three officers each of whom has held the post of Deputy Superintendent of Police for not less than two whole years.

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#### **Section 70 - Summary Security Force Court**

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(1) A Summary Security Force Court may be held by the Commandant of any unit of the Force and he alone shall constitute the Court.

(2) The proceedings shall be attended throughout by two other persons who shall be officers or subordinate officers or one of either, and who shall not as such, be sworn or affirmed.

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#### **Section 71 - Dissolution of a Security Force Court**

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(1) If a Security Force Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(2) If, on account of the illness of the Law Officer or of the accused before the finding, it is impossible to continue the trial, a Security Force Court shall be dissolved.

(3) The officer who convened a Security Force Court may dissolve the same if it appears to him that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Security Force Court.

(4) Where a Security Force Court is dissolved under this section the accused may be tried again.

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#### **Section 72 - Powers of a General Security Force Court**

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A General Security Force Court shall have the power to try any person subject to this Act for any offence punishable thereunder and to any sentence authorised thereby.

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**Section 73 - Powers of a Petty Security Force Court**

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A Petty Security Force Court shall have power to try any person subject to this Act other than an officer or a subordinate officer for any offence made punishable thereunder and to pass any sentence authorised by this Act other than a sentence of death, or imprisonment for a term exceeding two years.

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**Section 74 - Powers of a Summary Security Force Court**

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(1) Subject to the provisions of sub-section (2), a Summary Security Force Court may try any offence punishable under this Act.

(2) When there is no grave reason for immediate action and reference can without detriment to discipline be made to the officer empowered to convene a Petty Security Force Court for the trial of the alleged offender, an officer holding a Summary Security Force Court shall not try without such reference any offence punishable under any of the sections 14, 17 and 46 of this Act, or any offence against the officer holding the court.

(3) A Summary Security Force Court may try any person subject to this Act and under the command of the officer holding the court, except an officer, or a subordinate officer.

(4) A Summary Security Force Court may pass any sentence which may be passed under this Act, except the sentence of death or of imprisonment for a term exceeding the limit specified in sub-section (5).

(5) The limit referred to in sub-section (4) shall be,--

(a) one year, if the officer holding the Security Force Court has held either the post of Superintendent of Police or a post declared by the Central Government by notification to be equivalent thereto, for a period of not less than three years or holds a post of higher rank than either of the said posts; and

(b) three months, in any other case.

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**Section 75 - Prohibition of second trial**

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(1) When any person subject to this Act has been acquitted or convicted of an offence by a Security Force Court or by a criminal court or has been dealt with under section 53 or under section 55, he shall not be liable to be tried again for the same offence by a Security Force Court or dealt with under the said sections.

(2) When any person, subject to this Act, has been acquitted or convicted of any offence by a Security Force Court or has been dealt with under section 53 or section 55, he shall not be liable to be tried again by a criminal court for the same offence or on the same facts.

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**Section 76 - Period of limitation for trial for an offence of desertion in certain cases**

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No trial for an offence of desertion, other than desertion on active duty, shall be commenced if the person in question, not being an officer, has subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any unit of the Force.

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**Section 77 - Trial, etc., of offender who ceases to be subject to this Act**

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(1) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in Force custody and tried and punished for such offence as if he continued to be so subject.

(2) No such person shall be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or for any of the offences mentioned in section 17 or shall affect the jurisdiction of a criminal court to try any offence triable by such court as well as by a Security Force Court.

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**Section 78 - Application of Act during term of sentence**

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(1) When a person subject to this Act is sentenced by a Security Force Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Force, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(2) When a person subject to this Act is sentenced by a Security Force Court to death, this Act shall apply to him till the sentence is carried out.

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**Section 79 - Place of trial**

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Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

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**Section 80 - Choice between criminal court and Security Force Court**

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When a Criminal Court and a Security Force Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director-General, or the Inspector-General or the Deputy Inspector-General within whose command the accused person is serving or such other officer as may be prescribed, to decide before which court the proceedings shall be instituted, and, if that officer decides that they shall be instituted before a Security Force Court, to direct that the accused person shall be detained in Force custody.

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#### **Section 81 - Power of criminal court to require delivery of offender**

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(1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 80 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(2) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.

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