

Border Security Force Act, 1968

Chapter X - Miscellaneous

(1) The Central Government may, by general or special order published in the Official Gazette direct that, subject to such conditions and limitations, and within the local limits of such area adjoining the borders of India, as may be specified in the order, any member of the Force may,--

(i) for the purpose of prevention of any offence punishable under the Passport (Entry into India) Act, 1920 (34 of 1920), the Registration of Foreigners Act, 1939 (16 of 1939) the Central Excises and Salt Act, 1944 (1 of 1944), the Foreigners Act, 1946 (31 of 1946), the Foreign Exchange Regulation Act, 1947 (7 of 1947), the Customs Act, 1962 (52 of 1962), or the Passports Act, 1967 (15 of 1967), or of any cognizable offence punishable under any other Central Act; or punishable under any other Central Act; or

(ii) for the purpose of apprehending any person who has committed any offence referred to in clause (i),

exercise or discharged such of the powers or duties under that Act or any other Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by that or such other Act Empowered to exercise or discharge for the said purposes.

(2) The Central Government may, by general or special order published in the Official Gazette, confer or impose, with the concurrence of the State Government concerned, any of the powers on duties which may be exercised or discharged under a State Act by a police officer upon a member of the Force who, in the opinion of the Central Government, holds a corresponding or higher rank.

(3) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or¹[in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agreed in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

1. Substituted by Act 4 of 1986, section 2 and Schedule (w.e.f. 15-5-1986).

Section 140 - Protection for acts of members of the Force

(1) In any suit or proceeding against any member of the Force for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(2) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved the member of the Force shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(3) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of any provision of this Act or the rules, shall be commenced within three months after the act complained of was committed and not otherwise and notice in writing of such proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

Section 141 - Power to make rules

(1) The Central Government may, by notification, make rules for the purpose of carrying into effect the provisions of this Act.

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

(a) the constitution, governance, command and discipline of the Force;

(b) the enrolment of persons to the Force and the recruitment of other members of the Force;

(c) the conditions of service (including deduction from pay and allowances) of members of the Force;

(d) the rank, precedence, powers of command and authority of the officers, subordinate officers, under-officers and other

persons subject to this Act;

(e) the removal, retirement, release or discharge from the service of persons subject to this Act;

(f) the purposes and other matters required to be prescribed under section 13;

(g) the convening, constitution, adjournment, dissolution and sittings of Security Force Courts, the procedure to be observed in trials by such courts, the persons by whom an accused may be defended in such trials and the appearance of such persons thereat;

(h) the confirmation, revision and annulment of, and petitions against, the findings and sentences of Security Force Courts;

(i) the¹[forms or orders] to be made under the provisions of this Act relating to Security Force Courts and the awards and infliction of death, imprisonment and detention.

(j) the carrying into effect of sentences of Security Force Courts;

(k) any matter necessary for the purpose of carrying this Act into execution, as far as it relates to the investigation, arrest, custody, trial and punishment of offences triable or punishable under this Act;

(l) the ceremonials to be observed and marks of respect to be paid in the Force;

(m) the convening of, the constitution, procedure and practice of, Courts of inquiry, the summoning of witnesses before them and the administration of oaths by such Courts;

(n) the recruitment and conditions of service of the Chief Law Officer and the Law Officers.

(o) any other matter which is to be, or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion the Central Government, necessary for the proper implementation of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or²[in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1. Substituted Act 19 of 1988, section 3 and Second Schedule (w.e.f. 31-3-1988).

2. Substituted by Act 4 of 1986, section 2 and Schedule (w.e.f. 15-5-1986).

Section 142 - Provisions as to existing Border Security Force

(1) The Border Security Force in existence at the commencement of this Act shall be deemed to be the Force constituted under this Act.

(2) Member of the Border Security Force in existence at the commencement of this Act shall be deemed to have been appointed or as the case may be enrolled as such under this Act.

(3) Anything done or any action taken before the commencement of this Act in relation to the constitution of the Border Security Force referred to in sub-section (1), in relation to any person appointed or enrolled, as the case may be, thereto, shall be as valid and as effective in law as if such thing or action was done or taken under this Act:

Provided that nothing in this sub-section shall render any person guilty of any offence in respect of anything done or omitted to be done by him before the commencement of this Act.
