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THE SOLDIERS (LITIGATION) ACT, 1925

TAUT No. IV or 1925

[26th February, 1925]

An Act to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of ?*soldiers serving under special conditions.

WHEREAS it is expedient to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of ?* soldiers serving under special conditions ; It is hereby enacted as follows :-

1. Short title, extent and commencement.—(1) This Act may be called the ?*Soldiers (Litigation) Act, 1925.

3[(2) It extends to the whole of Pakistan.]

(3) It shall come into force on the first day of April, 1925.

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

(a) "Court" means a Civil or Revenue Court ;

4t(aa) "Northern Areas" means Gilgit Agency including four Political Districts of Pun al, Ashkoman, Gupis and Yasin, Gilgit and Astore Sub-divisions, Chilas Sub-Agency Darel-Tangir Sub-Agency and the States of Hunza and Nagar, and Baltistan Agency comprising Skardu, Shigax, Khaplu Kharmon, Rondu and Gultari Valleys ;].

(b) 'o* soldier" means any person subject to °* * * the Pakistan Army Act, 1952,]

7* * * Sor the Pakistan Air Force Act, 1953 (XXXIXVI of 1953).

'For statement of Objects and Reasons, see Gazette of India, 1924, Pt. V, p. 119,; and for Report of Sele

V,p. 11.

This Act has been applied to-

(i) Tribal Areas beyond the western and northern boundaries of the N.W.F.P., in so far as the same may be and subject to certain modification, see Gazette of India, 1940, Ext. p. 643;

(ii) the Baluchistan by Notfn. No. 18-F., dated the 24th January, 1938, see Gazette of India, 1938, Pt. 1. P.

The Act has been extended to-

(a) the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950). and the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499,

(b) the Baluchistan States Union by the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953), as amended;

(co) the Khairpur State, see the Khairpur (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953), as amended;

(d) the State of Bahawalpur, see the Bahawalpur (Extension of Federal Laws) Order, 1953 (G. G. O. 11 of 1953), as amended.

The Act has been and shall be deemed to have been brought into force in Gwadur with effect from the 8th (Application of Central Laws) Ordinance, 1960 (37 of 1960), s. 2.

°The word "Indian" omitted by the Indian Soldiers (Litigation) (Amdt.) Act, 1950 (78 of 1950) s. 2.

3Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from 1st July, 1960) which had been subs. by Act 78 of 1950, s. 2, for the original sub-section.

'Ins. by the Soldiers (Litigation) (Amdt.) Ordinance, 1971 (19 of 1971), s. 2.

'The word "Indian" omitted by the Indian Soldiers (Litigation) (Amdt.) Act, 1950 (78 of 1950), s. 2.

'The words "The Indian Army Act 1911 or" omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981) Sch. II

"The words "or the Indian Air Force Act, 1932" omitted by Ord. 27 of 1981, s. 3 and Sch. IT

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1 ,or the Pakistan Navy Ordinance, 1961 (XXXV of 1961)].

(c) "prescribed" means prescribed by rules made under this Act ; and

(d) "proceeding" includes any suit, appeal or application.

3. Circumstances in which a soldier shall be deemed to be serving under special conditions. For the purposes of this Act, *[a soldier] shall be deemed to be or, as the case may be, to have been serving—

(a) under special conditions-when he is or has been serving under war conditions, or overseas, or at any place in >* * "[Kashmir or the Northern Areas], or with any unit the headquarters of which are situated at any place in Chitral, Waziristan, the North-West Frontier °* or °* Baluchistan which is more than fifty miles distant by road from the nearest railway station ;

(b) under war conditions-when he is or has been, at any time during the continuance of any hostilities declared by the [Federal Government] by notification in the '[Official Gazette] to constitute a state of war for the purposes of this Act or at any time during a period of six months thereafter,-

(i) serving out of °[Pakistan],

(ii) under orders to proceed on field service,

(iii) serving with any unit which is for the time being mobilised, or

(iv) — serving under conditions which, in the opinion of the prescribed authority, preclude him from obtaining leave of absence to enable him to attend a Court as a party to any proceeding, or when he is or has been at any other time serving under conditions service under which has been declared by the '[Federal Government] by notification in the [Official Gazette] to be service under war conditions ; and

101(c) overseas—

(i) when he is or has been serving in any place outside Pakistan the journey between which and Pakistan is ordinarily undertaken wholly or in part by sea !![or air] [.]!*

13x * * * * *

'Ins. ibid.

Subs. by Act 78 of 1950, s. 5, for "an Indian soldier".

>The words "Iran, Afghanistan" omitted by the Ord. 27 of 1981, s. 3 and Sch. II.

4Subs by the Soldiers (Litigation) (Amdt.) Ordinance, 1971 (19 of 1971), s. 2, for "or Kashmir".

'The word "Province" omitted by Ordinance 21 of 1960, s. 3 and 2nd Sch. (with effect from the 14th October 1960).

'The word "British" omitted by Act 78 of 1950.

7Subs. by F. A. O., 1975, Art 2 and Table, for "Central Government" which was previously amended by A

8Subs. ibid., for "Gazette of India".

Subs. by Act 78 of 1950, s. 5, for "India".

'Subs. by the Indian Soldiers (Litigation) (Amendment) Act, 1950 (78 of 1950), for clause (c) as amended by A. O., 1937 and A. O., 1950.
"Added by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II.

"Subs. by F. A. O., 1975, Art. 2 and Table, for the fullstop.

'Sub-clause (II) omitted *ibid.*

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'Explanation—For the purposes of this section and with effect from the 3rd day of September, 1939, a soldier who is or has been a prisoner of war shall be deemed to be or to have been serving under war conditions.]

4. Particulars to be furnished in plaints applications or appeals to Court. If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is *[a soldier] who is serving under special conditions, he shall state the fact in his plaint, application or appeal.

5. Power of Collector to intervene in case of un-represented soldier. If any Collector has reason to believe that any >* soldier, who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein, the Collector may certify the facts in the prescribed manner to the Court.

6. Notice to be given in case of unrepresented soldier.— “[1] If a Collector has certified under section 5, or if the Court has reason to believe, that *[a soldier], who is a party to any proceeding pending before it, is unable to appear therein, and if the soldier is not represented by any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding and shall give notice thereof in the prescribed manner to the prescribed authority:

Provided that the Court may refrain from suspending the proceeding and issuing the notice if—

(a) the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of pre-emption, or

(b) the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature.

°[2] If it appears to the Court before which any proceeding is pending that *[a soldier] though not a party to the proceeding is materially concerned in the outcome of the proceeding, and that his interests are likely to be prejudiced by his inability to attend, the Court may suspend the proceeding and shall give notice thereof in the prescribed manner to the prescribed authority.]

7. Postponement of proceedings. If, on receipt of a notice under section 6, the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that the soldier in respect of whom the notice was given is serving under special conditions, and that a postponement of the proceeding in respect of the soldier is necessary in the interests of justice, the Court shall thereupon postpone the proceeding in respect of the soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

8. Court may proceed when no certificate received. If, after issue of a notice under section 6, the prescribed authority either certifies that the soldier is not serving under special conditions or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the

'Explanation added by the Indian Soldiers (Litigation (Amendment) Ordinance, 1942 (64 of 1942), s. 2. Subs. by Act 78 of 1950, s. 9, for "an Indian soldier"

>The word "Indian" omitted, *ibid.*

'Re-numbered by the Indian Soldiers (Litigation) (Amendment) Ordinance, 1942 (64 of 1942), s. 3.

5Subs. by the Indian Soldiers (Litigation) (Amendment) Act, 1950 (78 of 1950), s. 9, for "an Indian soldier".

°Sub-section (2), added by Ordinance 64 of 1942, s. 3.

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district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of the notice that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

9. Postponement of proceedings against soldier on leave. When any document purporting to be signed by the Commanding Officer of '[a soldier] who is a party to any proceeding is produced by or on behalf of the soldier before the Court in which the proceeding is pending and is to the effect that the soldier—

(a) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service under special conditions, or

(b) is on sick leave for a period not exceeding three months, and is on the expiration of his leave to rejoin his unit with a view to proceeding on service under special conditions, the proceeding in respect of such soldier may, in any case such as is referred to in the proviso to *[sub-section (1) of section 6] and shall, in any other case, be postponed in the manner provided in section 7.

10. Power to set aside decrees and orders passed against a soldier serving under war or special conditions.— (1) In any proceeding before a Court in which a decree or order has been passed against any >* soldier *** whilst he was serving under any special conditions, the soldier S[or, if he is dead, his legal representative] may apply to the Court which passed the decree or order for an order to set aside the same, and, if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the soldier, the Court shall, subject to such conditions, if any, as it thinks fit to impose, make an order accordingly.

8[(2) The period of limitation for an application under sub-section (1) shall be ninety days from the date of the decree or order, or, where the summons or notice was not duly served on the soldier in the proceeding in which the decree or order was passed, from the date on which the applicant had knowledge of the decree or order ; and the provisions of section 5 of the >* Limitation Act, 1908 (IX of 1908), shall apply to such applications.]

(3) When the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be.

7[11. Modification of law of limitation where soldier or his legal representatives is a party. [In computing the period of limitation prescribed by sub-section (2) of section 10 of this Act, the [Limitation Act], 1908 (LX of 1908), or any other law for the time being in force, for any suit,

'Subs. by the Indian Soldiers (Litigation) (Amdt.) Act, 1950 (78 of 1950), s. 9, for "an Indian soldier".

*Subs. by the Indian Soldiers (Litigation) (Amdt.) Ordinance, 1942 (64 of 1942), s. 4, for "section 6".

*The word "Indian" omitted by Act 78 of 1950, s. 10.

4The words and figures "whilst he was serving under war condition or at any time after the 1st day of April of 1942, s. 5 (a).

SIns., ibid.

Subs. *ibid.*, for sub-section (2).

7Subs. by the Indian Soldiers (Litigation) (Amdt.) Ordinance, 1942 (64 of 1942), s. 5, for s. 11.

'Subs. by the Indian Soldiers (Litigation) (Amdt.) Act, 1950 (78 of 1950), s. 11, for "Indian Limitation Act".

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appeal or application to a Court, any party to which is or has been '[a soldier], or is the legal representative of '[a soldier], the period during which the soldier has been serving under any special conditions, and, if the soldier has died while so serving, the period from the date of his death to the date on which official intimation thereof was sent to his next-of-kin by the authorities in *[Pakistan], shall be excluded:

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption *[*[except where the said right accrues in such circumstances, and is in respect of agricultural land and village immoveable property situated in any such area,] as the *[Federal Government] may, by notification in the official Gazette, specify in this behalf].

°[12. Power of Court to refer questions to prescribed authorities. If any Court is in doubt whether, for the purposes of section 10 or section 11, [a soldier] is or was at any particular time serving under special conditions, or has died while so serving or as to the date of such death or as to the date on which official intimation of such death was sent to his next-of-kin by the authorities in *[Pakistan], the Court may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point.]

13. Rule making power. The *[Federal Government] after consulting the High Court *[concerned], may, by notification in the '[official Gazette]', make rules to provide for all or any of the following matters namely:—

- (a) the manner and form in which any notice or certificate under this Act shall be given ;
- (b) the period for which proceedings or any class of proceedings shall be postponed under section 7 ;
- (c) the persons who shall be the prescribed authorities for the purposes of this Act
- (d) any other matter which is to be or may be prescribed; and
- (e) generally, any matters incidental to the purposes of this Act.

14. Power to apply the provisions of the Act to other persons in the service of the State— ![(1)] [As respects the Provincial Public Services the Provincial Government, and in other cases, the '3[Federal Government] may, by notification in the 'official Gazette],

'Subs. by Indian Soldiers (Litigation) Amdt.) Act. 1950 (78 of 1950), s. 11.

Subs. *ibid.*, for "India".

3Added by the Indian Soldiers (Litigation) (Amdt.) Ordinance, 1944 (14 of 1944), s. 2.

4Subs. by the Indian Soldiers (Litigation) (Amdt.) Act, 1946 (18 of 1946), s. 2, for "except in such areas, as any,"

SSubs. by F.A.O., 1975, Art. 2 and Table, for "Central Government".

Subs. by Ordinance 64 of 1942, s. 7, for section 12.

7Subs. by Act 78 of 1950, s. 12, for "an Indian soldier".

SSubs. by F. A. O., 1975, Art 2 and Table, for "Central Government" which was previously amended by A

*Ins, by A. O. 1937.

¹⁰Subs. *ibid.*, for “local official Gazette.”

“Re-numbered by the Indian Soldiers (Litigation) (Amdt.) Ordinance, 1942, (64 of 1942), s. 8.

Subs. by A. O., 1937, for “The G. G. in C.”.

¹¹Subs. by F. A. O., 1975, Art. 2 and Table, for “Central Government”.

Subs. by A. O., 1937 for “Gazette Notification”.

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direct that all or any of the provisions of this Act, shall apply! to any other class of persons in the service of *[the State] specified in such notification in the same manner as they apply to ** soldiers.

4[(2) Where, under this section, the Provincial Government has directed that all or any of the provisions of this Act shall apply to any class of persons in the service of *[the State], the powers vested in the °[Federal Government] by section 3 and section 13 shall be exercised in respect of that class of persons by the Provincial Government].

14A. [Power to apply the provisions of the Act to members of State Forces.] Omitted by the, Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch., II.

15. [Repeal of Acts IX of 1918 and XII of 1924.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

*The Act was applied before partition to the following classes of persons :—

(a) Senior Officers of the Indian Territorial Force, by Defence Department Notification No. 251, dated the 1940.

(b) Persons subject to the Indian Navy (Discipline) Act, 1934 (34 of 1934), and to persons of Indian domi

the Naval Discipline Act (29 and 30 Viet, c. 109), in the same manner as they apply to Indian soldiers, see India, 1945, Pt. 1, p. 141.

(c) Persons of Indian domicile who are subject to the Army Act and the Air Force Act, by War Department No. 653, dated the 15th May, 1943.

(d) Persons who are subject to the Burma Act, by War Department Notification No. 970, dated the 12th Ju

(e) Indian Commissioned Officers, Administrative Officers and personnel of the Civil Pioneer Force while

War Area, by Labour Department Notification No. PF-41, dated the 13th April, 1943, as amended by Noti PF-41, dated the 25th February, 1944.

(f) Persons who, not being members of His Majesty's Forces are attached to or employed by the Royal In War Department Notification No. 1296, dated the 25th September, 1943.

The provisions of this Act, as applied to the Tribal Areas beyond the western and northern boundaries of apply to all classes of personnel in the service of His Majesty to which it is for the time being applicable in notification issued by the Central Government, see Gazette of India, 1944, Pt. 1. p. 1421

All provisions of this Act have been applied to persons subject to Pakistan Navy Ordinance, 1961 (35 of 1 being so subject are attached to, or employed by the Pakistan Navy, in the same manner as they apply to dated the 23rd July, 1965, Gaz. of P., 1965, Pt. I, p. 517.

*Subs. by A. O., 1961, Art. 2 and Sch., for "His Majesty" (with effect from the 23rd March, 1956).

*The word "Indian" omitted by the Indian Soldiers (Litigation) (Amdt.) Act, 1950 (78 of 1950), s. 13.

4Sub-section (2) added by the Indian Soldiers (Litigation) (Amdt.) Ordinance, 1942 (64 of 1942).

*Subs. by A. O., 1961, Art. 2 and Sch., for "His Majesty" (with effect from the 23rd March, 1956).

®Subs. by F. A. O., 1975, Art. 2 and Table, for "Central Government".