

THE NATIONAL GUARDS ACT, 1973.

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THE NATIONAL GUARDS ACT, 1973

'ACT NO. LXI OF 1973

[12th August, 1973]

An Act to provide for the constitution and discipline of the National Guards.

WHEREAS it is expedient to provide for the constitution and discipline of the National Guards and matters ancillary thereto;

It is hereby enacted as follows :—

CHAPTER I PRELIMINARY

1. Short title, application and commencement. —(1) This Act may be called the National Guards Act, 1973.

(2) It extends to the whole of Pakistan and applies to all persons subject to this Act, wherever they may be.

>[(3) It shall come into force at once:

Provided that nothing in this Act shall be deemed to authorize the punishment of any person for any act or omission which was not punishable before the 24th day of December, 1973.]

2. Persons subject to this Act— (1) Every person enrolled in the Mujahid Force or the Janbaz Force and every person who was subject to the Mujahid Force Ordinance, 1965 (XXII of 1965), immediately before the commencement of this Act, shall be subject to this Act wherever he may be and shall remain so subject until his discharge in accordance with this Act.

3. Constituents of National Guards. The following four types of forces shall constitute the National Guards, namely:—

(a) the Mujahid Force; *[and]

(b) the Janbaz Force 7[.]

'For Statement of Objects and Reasons, see Gaz. of P., 1973, Ext., Pt. III, p. 1388.

*Subs. and shall be deemed always to have been so subs. with effect from the 12th day of August, 1973 (57 of 1975), s. 2, for the original sub-section (3).

Omitted, Added and Subs. by the National Guards (Amdt.) Ordinance, 2002 (XLII of 2002), ss. 2-3.

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

(1) “Board” means a Board of Intermediate and Secondary Education;

(2) “college” means an institution affiliated to a Board or University;

(3) “commanding officer” means, —

(a) when used in relation to a person subject to this Act, the officer for the

time being in command of the portion of the Force to which such person belongs or is attached; and

(b) when used with reference to any separate portion of the Force, the officer whose duty it is under the regulations of the Force, or, in the absence of such regulations, by its custom, to discharge with respect to that portion the functions of the commanding officer;

(4) “director of education” means any Provincial or regional director of education and includes a director of education in the Capital of the Federation;

(5) “Director-General” means the Director-General, National Guards, appointed by the Federal Government;

(6) “district” means a revenue district of a Province;

(7) “division” means a revenue division of a Province;

(8) “employer” means any person who employs another person for hire or reward, either directly or through a contractor, whether the terms of employment be expressed or implied, and includes, in the case of an establishment, the person responsible for the management, supervision and control of the establishment;

(9) “enrolled” means enrolled or re-enrolled in either of the Forces referred to in clauses (a) and (b) of section 3;

(10) “Force” means any of the '[two]' constituents of the National Guards referred to in section 3;

(11) “independent company” means every company which does not form part of a battalion;

(12) “junior commissioned officer” means a person commissioned, gazetted or in pay as junior commissioned officer in the Force;

(13) “non-commissioned officer” means a person enrolled and holding a non-commissioned rank in the Force;

'Subs. by the National Guards (Amdt.) Ordinance, 2002 (XLII of 2002), s. 4.

(14) "officer" means a person commissioned, gazetted or in pay as an officer of the Force, but does not include a junior commissioned officer;

(15) "prescribed" means prescribed by rules;

(16) "regulations" means regulations made under this Act;

(17) "rules" means rules made under this Act; and

(18) "unit" means a unit of the Force.

CHAPTER II

CONSTITUTION AND CONTROL OF THE MUJAHID FORCE

5. Constitution of Mujahid Force. There shall be raised and maintained, in accordance with the provisions of this Act, a force to be designated the Mujahid Force.

6. Constitution and disbandment of units. The Federal Government, or any officer or authority empowered by it in this behalf, may constitute one or more units of the Mujahid Force to be recruited from persons residing in Pakistan and may disband or reconstitute any unit so constituted.

7. Personnel of the Mujahid Force. — (1) There shall be the following classes of personnel in the Mujahid Force, namely: —

(a) officers holding commissions in the Force granted by the President;

(b) junior commissioned. officers holding commissions in the Force granted by the Chief of the Army Staff;

(c) non-commissioned officers. appointed. as such by the respective commanding officers; and

(d) Mujahids.

(2) An officer or a junior commissioned officer shall be deemed to be enrolled in the Force for so long as he holds commission therein.

8. Enrolment. — (1) Every male citizen of Pakistan who is of such age as may be prescribed may offer himself for enrolment in the Mujahid Force for service in any unit and any such person who satisfies the conditions laid down in the regulations may be enrolled for such period and in such manner as may be prescribed.

(2) Every person enrolled shall, without unnecessary delay, be appointed to a unit in which he has applied for service.

9. Transfer and attachment. Notwithstanding anything contained in section 8, any person appointed to a unit may—

(a) with his consent, be transferred, whether on disbandment of the unit or otherwise, to another unit in such manner as may be prescribed; and

(b) at his request, be attached to another unit.

CHAPTER III

CONSTITUTION AND CONTROL OF THE JANBAZ FORCE

10. Constitution of Janbaz Force. There shall be raised and maintained, in accordance with the provisions of this Act, a force to be designated the Janbaz Force.

11. Constitution and disbandment of Unit. The Federal Government, or any officer or authority empowered by it in this behalf, may constitute for any division or district one or more units to be recruited from persons residing in such division or district and may disband or reconstitute any unit so constituted.

12. Personnel of Janbaz Force. — (1) There shall be the following classes of personnel in the Janbaz Force, namely: —

(a) officers holding commissions in the Force granted by the President;

(b) junior commissioned officers holding commissions in the Force granted by the Chief of the Army Staff.

(c) non-commissioned officers appointed as such by the respective commanding officers; and

(d) Janbazes.

(2) An officer or a junior commissioned officer shall be deemed to be enrolled in the Force for so long as he holds commission therein.

13. Enrolment. — (1) Any male citizen of Pakistan who is of such age as may be prescribed may offer himself for enrolment in the Janbaz Force for service in the unit constituted for the division or district in which he resides and any such person who satisfies the conditions laid down in the regulations may be enrolled for such period and in such manner as may be prescribed.

(2) Every person enrolled shall, without unnecessary delay, be appointed to a unit in which he has applied for service.

14. Transfer and attachment. Notwithstanding anything contained in section 13, any person appointed to a unit may —

(a) with his consent, be transferred, whether on disbandment of the unit or otherwise, to another unit in such manner as may be prescribed;

(b) at his request, be attached to another unit; and

(c) at his request, be employed for duties outside the division or district from which he is recruited.

CHAPTER IV

PROVISIONS APPLICABLE GENERALLY TO THE MUJAHID FORCE AND THE JANBAZ FORCE

15. Liability for military training. — (1) The persons referred to in sub-section (1) of section 2 shall be liable to be called up for training and, for the purpose of such training, their command and control shall be regulated according to the orders of the Director General or any authority empowered by him in this behalf.

(2) For calling up a person under sub-section (1) it shall be sufficient to broadcast or telecast over the Radio or Television or to publish in the newspapers a notice requiring such person, or the class of persons to which he belongs, to report to such authority and all such time and place as may be specified in the notices.

16. Liability to serve and perform embodied service. — (1) Every person referred to in sub-section (1) of section 2 shall be liable to serve in any unit to which he has been appointed or transferred or is for the time being attached and shall be subject to all rules and regulations.

(2) Every such person shall be liable to perform —

(a) service when called out with any portion of the Force by an order of the Director-General or any officer or authority empowered by him in this behalf, either to act in support of the civil power or departments or agencies of Government engaged in nation building activities or development programmes or to provide guards which, in the opinion of such officer or authority, are essential, or

(b) military service when the unit to which he belongs has been embodied to support or supplement the Pakistan Army by an order, directing such embodiment, of the Federal Government, or an authority empowered by it in this behalf.

(3) For calling out a person under sub-section (2), it shall be sufficient to broadcast or telecast over the Radio or Television and to publish in the newspapers a notice requiring such person, or the class of persons to which he belongs, to report to such authority and at such time and place as may be specified in the notice.

17. Discharge. — (1) Every person enrolled shall be entitled to receive his discharge from the Force on the expiration of the period for which he was enrolled and may, before the expiration of the period, be discharged from the Force by such authority and subject to such conditions if any, as may be prescribed:

Provided that a person enrolled who is for the time being engaged in military service shall not be entitled to receive his discharge before the termination of such service.

(2) Every person enrolled who becomes entitled to discharge under sub-section (1) shall be discharged with all convenient speed.

18. Application of the Pakistan Army Act, 1952. — (1) Subject to the terms and conditions of his commission and any order of the prescribed authority made in this behalf, every officer and junior commissioned officer, when doing duty as such officer or junior commissioned officer, shall be subject to the provisions of the Pakistan Army Act, 1952 (XXXIX of 1952), and the rules and regulations made thereunder as if such officer or junior commissioned officer held the same rank in the Pakistan Army as he, for the time being, holds in the Force:

Provided that the said Act, rules and regulations shall, in their application to such persons when called out or embodied for service or military service under section 16 or during training in the Mujahid Force or the Janbaz Force be modified to such extent and in such manner as may be prescribed.

(2) Subject to any order of the prescribed authority made in this behalf, every non-commissioned officer, Mujahid and Janbaz of the Force —

(a) when undergoing training, or

(b) when called out or embodied for service or military service under section 16,

shall be subject to the Pakistan Army Act, 1952 (XXXIX of 1952), and the rules and regulations made there under, as if he held the same rank in the Pakistan Army as he, for the time being, holds in the Force:

Provided that the said Act, rules and regulations shall, in their application to such non-commissioned officer, Mujahid or Janbaz when embodied for or otherwise undergoing Training, be modified to such extent and in such manner as may be prescribed.

(3) Where any person while he is subject to the provisions of the Pakistan Army Act, 1952 (XXXIX of 1952), commits any offence punishable thereunder, he may, notwithstanding that he may have ceased to be so subject, be taken into and kept in custody and tried and punished for such offence in the same manner as he would have been liable to be tried and punished had he not ceased to be so subject.

19. Presumption as to certain documents. When any person enrolled, other than an officer, is required by or in pursuance of any rule, regulation or order 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 has failed to attend in accordance with such requirement shall without proof of the signature or appointment of such officer, be evidence of the matter stated therein.

20. Persons subject to the Act to be deemed part of the Pakistan Army. For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, 1898 (Act V of 1898), all officers, junior commissioned officers, non-commissioned officers and men of the Force when embodied for military service shall be deemed to be officers, junior commissioned officers, non-commissioned officers and soldiers respectively of the Pakistan Army.

21. Exemption from local taxation. On embodiment for military service, notwithstanding anything contained in any other law for the time being in force, no person shall be liable to pay any municipal or other tax in respect of any horse, bicycle, motor cycle, scooter, motor car or other conveyance which he is required or authorised by a general or special order of the Chief of the Army Staff to maintain in his capacity as a person enrolled in, or as a person otherwise connected with, the Force.

22. Treatment of period spent in training service, etc. — (1) The period spent in embodied service or training by any person enrolled shall count towards increment of pay, seniority, pension and gratuity or bonus, and shall be treated by his employer as period spent on duty.

(2) A person enrolled shall on embodiment be entitled to draw his pay and allowances from the Federal Government and to opt to draw these at the rates to which he was entitled immediately before his enrolment.

(3) The pay and allowances admissible to a person enrolled while he is on embodied service shall in no case be less favourable to him than those to which he was entitled during his training.

23. Extention of age limit. Where any maximum qualifying age has been fixed for regulating the eligibility of persons for admission to a competitive examination held for appointment to any service or post or any academic or professional institution or for appointment to any service or post, a person who has served in the Mujahid Force or the Janbaz Force shall, for the purpose of such eligibility, be entitled, notwithstanding anything contained in any other law for the time being in force or any rule, order or instrument, to the period actually spent by him in training or service in such force, or both in such training and in such service, being deducted from his age.

24. Reinstatement of persons called up for embodied service or training. — (1) Notwithstanding anything contained in any other law for the time being in force or in any contract or agreement, a person enrolled who has been called up for service or training shall, upon the termination of such service or training, be entitled to re-instatement in the employment from which he was released at the time he was called up and the employer shall re-instate such person in such employment or, if such re-instatement is less favourable to him than that to which he would, in the ordinary course, have been entitled, give him such employment as is not so less favourable:

Provided that the employer shall not be required to re-instate or employ any person enrolled if he does not apply or report to the employer for the purpose within one month of his release from such service or training.

(2) If any employer contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, and with fine which may extend to ten thousand rupees, and the court convicting him shall direct that the employer shall also pay as compensation to the person enrolled concerned an amount equal to six months' remuneration of such person at the rate to which he was entitled when he was released.

(3) No court inferior to that of a Magistrate of the first class invested with powers under section 30 of the Code of Criminal Procedure, 1898 (Act V of 1898) shall try an offence under this section.

(4) No order made or proceedings taken under this section shall be called in question in any court.

'TCHAPTERV * *

CONSTITUTION AND CONTROL OF THE NATIONAL CADET CORPS * * *

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CHAPTER VI * *

CONSTITUTION AND CONTROL OF WOMEN GUARDS * * *

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CHAPTER VII

MISCELLANEOUS

36. Regrant of Commissions. The Federal Government or any prescribed authority may regrant commissions to suitable retired officers of the Pakistan Army having no reserve liability, for appointment in any of the Forces.

2[36A. The Federal Government or any prescribed authority may re-employ suitable retired officers of the Pakistan Army having reserve liability for service with any of the Forces:

Provided that such re-employment shall not relieve the retired officers of their reserve liability.]

‘Omitted by the National Guards (Amdt.) Ordinance, 2002 (XLII of 2002), s. 5.
New section 36A ins. by the National Guards (Amdt.) Act 1976 (35 of 1976). s. 2.

37. Provision of storage accommodation. The Provincial Government shall, on such terms as may be agreed upon between that Government and the Federal Government, provide storage accommodation for weapons and ammunition required for the training of the Janbaz Force'[*]

38. Employer not to prevent employee from getting enrolled. — (1) No employer shall prevent or stop any person employed by him from getting himself enrolled under this Act.

(2) Any employer who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

(3) No court inferior to that of a Magistrate of the first class invested with powers under section 30 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall try an offence under this section.

39. Power to make rules. — (1) The Federal Government may make rules for carrying out the purposes of this Act.

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

(a) prescribe the period for which and the manner in which persons may be enrolled;

(b) prescribe the manner in which a person enrolled may be transferred;

(c) provide for and regulate the remuneration, allowances, gratuities or compensation to be paid to persons subject to this Act or to their dependants;

(d) prescribe the extent to which and the manner in which, if any, the provisions of the Pakistan Army Act, 1952 (XXXIX of 1952), and the rules and regulations made thereunder shall be modified in their application to the enrolled persons of the Force;

(e) prescribe the officers by whom a certificate referred to in section 19 may be signed;

(f) prescribe the authorities by whom, and the conditions subject to which persons enrolled may be discharged;

(g) prescribe the authorities by whom a unit may be constituted or disbanded;

‘Omitted by the National Guards (Amdt.) Ordinance, 2002 (XLII of 2002), s. 6.

(h) prescribe the training, compulsory or voluntary, for any person or class of persons enrolled and provide for the embodiment of any unit for that purpose;

(i) provide for the medical examination of persons offering themselves for enrolment under this Act; and

Gj) provide for any other matter which may be necessary for effectively carrying the provisions of this Act into effect.

(3) All rules made under this Act shall be published in the official Gazette and on such publication shall have effect as if enacted in this Act.

40. Power to make regulations. The Chief of the Army Staff may make regulations, not inconsistent with this Act and the Rules, providing generally for all details connected with the organisation and personnel of the Force and for duties, '[*] clothing, courses of instruction, equipment, pay and allowances, medical treatment, pensionary benefits, honours and awards, leave, conveyance and age limits for persons offering themselves for enrolment or training under this Act *fand for the training of persons enrolled].

3[40A. Rules and regulations to have retrospective effect. Any rule or regulation made before the enactment of the National Guards (Amendment) Act, 1975 (LVII of 1975), shall be deemed to have been validly made and taken effect on the twelfth day of August, 1973; and any rule or regulation made within thirty days of such enactment may be made so as to have retrospective effect from any day not earlier than that day.]

41. [Repeal] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch., IL.

'The word "training" omitted and shall be deemed always to have been so omitted with effect from 12th day of August, 1975 (57 of 1975), s.7.

°The certain words "added *ibid.*"

*New S. 40A ins. *ibid.*, s.8.