

27 THE ANDAMAN AND NICOBAR ISLANDS  
HOME GUARDS REGULATION, 1964

No. 5 OF 1964

Promulgated by the President in the Fifteenth Year of the  
Republic of India.

A Regulation to provide a volunteer organisation for use  
in emergencies and for other purposes in the Union  
territory of Andaman and Nicobar Islands.

In exercise of the powers conferred by clause (1) of article 240  
of the Constitution, the President is pleased to promulgate the  
following Regulation made by him:—

1. (1) This Regulation may be called the Andaman and Nicobar  
Islands Home Guards Regulation, 1964. Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of the Union territory of Andaman  
and Nicobar Islands.

(3) It shall come into force in such areas on such date as the  
Chief Commissioner may, by notification in the Official Gazette,  
appoint and different dates may be appointed for different areas.

2. In this Regulation, unless the context otherwise requires,— Definitions.

(a) "Chief Commissioner" means the Chief Commissioner of  
Andaman and Nicobar Islands;

(b) "Islands" means the Andaman and Nicobar Islands;

(c) "Official Gazette" means the Andaman and Nicobar  
Gazette;

(d) "prescribed" means prescribed by rules made under this  
Regulation.

3. (1) The Chief Commissioner shall constitute for each of the  
areas notified under sub-section (3) of section 1, a volunteer body  
called the Home Guards, the members of which shall exercise such  
powers and perform such duties in relation to the protection of  
persons, the security of property and the public safety as may be  
assigned to them in accordance with the provisions of this Regulation  
and the rules made thereunder. Constitution  
of Home  
Guards and  
appointment  
of Comman-  
dant and  
Area Com-  
mandant.

for each of the Home Guards

(3) The Chief Commissioner shall also appoint a Commandant of the Home Guards in whom shall vest the general supervision and control of the Home Guards in the Islands.

point-  
nt of  
mbers.

4. (1) Subject to the approval of the Commandant, the Area Commandant may appoint as members of the Home Guards for each area such number of persons, who are fit and willing to serve, as may from time to time be determined by the Chief Commissioner in respect of each such area and may appoint any such member to any office of command in the Home Guards.

(2) Notwithstanding anything contained in sub-section (1), the Commandant may appoint any such member to any post under his immediate control.

(3) Every member of the Home Guards shall receive a certificate which shall be in such form and shall be issued by such authority as may be prescribed.

(4) Every member of the Home Guards shall receive such training during such hours and for such period as may be prescribed including training in—

- (a) police duties like control of traffic and crowds;
- (b) rescue operations, first-aid and fire fighting;
- (c) map reading, fieldcraft, wireless operation and use of fire-arms.

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rvice and  
scharge.

5. (1) A member of the Home Guards shall be required to serve the Government for such period as may be prescribed but any such member may be discharged from the Home Guards at any time by such authority on such grounds and subject to such conditions as may be prescribed :

Provided that it shall not be necessary for such authority to disclose the grounds if such authority considers that such disclosure will be against the public interest.

(2) An order of discharge under sub-section (1) shall be final.

alling out  
Home  
uards.

6. The Area Commandant may, by order, at any time call out a member of the Home Guards for training or for exercising the powers and discharging the duties, whether within or outside the

REGULATION.

7. (1) A member of the Home Guards, when called out by an order under section 6, shall have the same powers, privileges and protection as an officer of police appointed under any law for the time being in force.

Powers,  
privileges  
and protection  
of  
Home  
Guards.

(2) No prosecution shall be instituted against the member of the Home Guards in respect of anything done or purported to be done by him in the exercise of his powers or the discharge of his duties as such member except with the previous sanction of the Commandant.

8. A member of the Home Guards, when called out by an order under section 6, in aid of the police force, shall be under the control of the officers of police force in such manner and to such extent as may be prescribed.

Control by  
officers of  
police force.

9. (1) It shall be the duty of every employer by whom a person called out by an order under section 6 is employed to grant him such leave as may be necessary and to reinstate him in his employment on the termination of the period during which he has been so called out in an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been so called out :

Reinstatement  
in  
civil employ-  
ment of persons  
called out  
under section 6.

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person or if for any reason the reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

(a) exempting the employer from the provisions of this section, or

(b) requiring him to re-employ such person on such terms as that authority thinks suitable, or

(c) requiring him to pay to such person by way of compensation for failure or inability to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to comply with the provisions of clause (b) or clause (c) of the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which the employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for the employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period during which he was called out by an order under section 6.

(4) The duty imposed by sub-section (1) upon the employer to grant leave to such person as is referred to in that sub-section or to reinstate him in his employment shall attach to the employer who, before such person is actually called out by an order under section 6, terminates his employment in such circumstances as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of an order relating to that person under section 6.

reservation  
certain  
rights of  
persons called  
out  
under  
section 6.

10. When any person called out by an order under section 6 has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue during the period for which he has been so called out and if he is reinstated, until such reinstatement under the provisions of this Regulation, to have in respect of such fund or scheme such rights as may be prescribed.

pay and  
allowances.

11. (1) Every member of the Home Guards shall, during the period of training or service in the Home Guards, receive from the Government such allowances as may be prescribed.

(2) Where any such member was in any employment immediately before he is called out for training or service by an order under section 6, the employer shall be liable to pay to him the pay and allowances as if such member had not been so called out.

(3) If any employer refuses or fails to pay any such member the pay and allowances as provided in sub-section (2), such pay and

authority, be recovered from the employer in such manner as may be prescribed.

12. (1) Every person who for any reason ceases to be a member of the Home Guards shall forthwith deliver to the Area Commandant or to such person and at such place as the Area Commandant may direct his certificate of appointment, arms, accoutrements, clothing and other articles supplied to him as a member of the Home Guards.

Surrender  
of certificate,  
arms, etc.

(2) The Area Commandant or such other person receiving under sub-section (1) any certificate of appointment, arms, accoutrements, clothing and other articles, shall give a receipt for the same to the person delivering such certificate, arms, accoutrements, clothing and other articles.

1898.

(3) Any magistrate, and for special reasons which shall be recorded in writing at the time, any police officer not below the rank of an Assistant Superintendent of Police, may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other articles not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a police officer or if the magistrate or the police officer issuing the warrant so directs, by any other person.

(4) Nothing in this section shall be deemed to apply to any article which under the orders of the Commandant has become the property of the person to whom the same was furnished.

13. (1) The Area Commandant may, by order in writing, suspend or remove from the Home Guards any member of the Home Guards under his control,—

Suspension  
or removal.

*1/2* (a) who on being called out by an order under section 6, without reasonable cause neglects or refuses—

(i) to obey such order, or

(ii) to exercise the powers and discharge the duties as a member of the Home Guards, or

*6/4* (iii) to obey any lawful order or direction given to him as a member of the Home Guards; or

*4/2* (b) who is guilty of any breach of discipline or of any misconduct.

~~THE COMMANDANT SHALL HAVE THE LIKE AUTHORITY IN RESPECT TO ANY~~  
member of the Home Guards appointed to a post under his immediate control and may also dismiss any member of the Home Guards on the ground of conduct which has led to his conviction on a criminal charge.

(2) No order under sub-section (1) shall be passed unless the member of the Home Guards affected by such order is given an opportunity to be heard in his defence :

Provided that this sub-section shall not apply where a member of the Home Guards is dismissed on the ground of conduct which has led to his conviction on a criminal charge.

✓ (3) The suspension or removal of a member of the Home Guards under this section shall be in addition to any penalty to which such member may be liable under section 14 or any other law for the time being in force.

s. 14. (1) If any member of the Home Guards, on being called out by an order under section 6, without reasonable cause neglects or refuses—

M (a) to obey such order, or

(b) to exercise the powers and discharge the duties as a member of the Home Guards, or

(c) to obey any lawful order or direction given to him as a member of the Home Guards,

✓ he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

✓ (2) If any member of the Home Guards wilfully neglects or refuses to deliver up his certificate of appointment or any other article in accordance with the provisions of sub-section (1) of section 12, he shall, on conviction, be punishable with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

✓ (3) No proceeding shall be instituted under sub-section (1) or sub-section (2) without the previous sanction of the Commandant.

✓ (4) A police officer may arrest without warrant any person who commits an offence punishable under this section.

of the Area Commandant may appeal against such order to the <sup>revision.</sup> Commandant and any member aggrieved by an order of the Commandant (not being an order passed in appeal) may appeal against such order to the Chief Commissioner within thirty days of the date on which he was served with notice of such order. The Commandant or the Chief Commissioner, as the case may be, may pass such order as he thinks fit confirming, modifying or annulling the order appealed against.

(2) The Chief Commissioner may of his own motion or on application call for and examine the record of any order passed by the Area Commandant or a Commandant and revise, after such inquiry as he may deem necessary, any such order :

Provided that no order prejudicial to a person shall be passed under this sub-section without giving him a reasonable opportunity of being heard :

Provided further that the Chief Commissioner shall not issue any order under this sub-section in any case—

(a) where an appeal against the order lies and the time within which such appeal can be made has not expired or the person has not waived his right to appeal;

(b) where the order is the subject of an appeal;

4/2 (c) where the application is made by an aggrieved person for such revision, unless the application is made within ninety days from the date on which the order was served on the applicant.

16. (1) The Chief Commissioner may make rules to carry out <sup>Power to make rules.</sup> all or any of the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate the following matters, namely :—

member (a) all matters expressly required or allowed by this Regulation to be prescribed;

(b) the organisation, qualifications, appointment, discipline, training, arms, accoutrements, clothing, conditions of service, powers and duties of the Home Guards;

(c) the exercise by any officer of the Home Guards of the powers conferred by section 6 on the Area Commandant and the Commandant;

over members of the Home Guards acting in aid of the police force;

(e) the constitution of the authority for the purpose of section 9 and the manner in which such authority may conduct any inquiry under this Regulation.

(3) All rules made under this Regulation shall be published in the Official Gazette.

17. Members of the Home Guards acting under this Regulation shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

18. Notwithstanding anything to the contrary contained in any other law for the time being in force, a member of the Home Guards shall not be disqualified for being chosen and for being a member of any local authority merely by reason of the fact that he is a member of the Home Guards.

S. RADHAKRISHNAN,

*President.*

R. C. S. SARKAR,

*Secy. to the Govt. of India.*