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सरकारी राजपत्र OFFICIAL GAZETTE

संघ प्रदेश दादरा एवं नगर हवेली तथा दमण एवं दीव प्रशासन
U.T. ADMINISTRATION OF DADRA AND NAGAR HAVELI AND
DAMAN AND DIU

असाधारण EXTRAORDINARY

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U.T. Administration of Dadra and Nagar Haveli
and Daman and Diu
Department of Law and Justice
Vidyut Bhawan, Nani Daman

NOTIFICATION

No. LAW/U.T. Merge (4) /Adapt. State Law/2022/56

Dated: 30/03/2022

In exercise of the powers conferred by section 19 of the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019 (44 of 2019) and in pursuance of the Dadra and Nagar Haveli and Daman and Diu (Adaptation of Central Law, State Laws and Presidential Regulations) Orders, dated 18th January, 2022 a copy of “**The Bombay Home Guards Act, 1947 (Bombay Act 3 of 1947) (as extended to the Union territory of Dadra and Nagar Haveli and Daman and Diu)**” dated 22/03/2022 is hereby publish in the Official Gazette of this Union territory of Dadra and Nagar Haveli and Daman and Diu for implementation and for general information.

Sd/—
(Rohit P.Yadav)
Secretary Law
Dadra and Nagar Haveli and
Daman and Diu

**The Bombay Home Guards Act, 1947(Bombay Act 3 of 1947)
as extended to the Union territory of Dadra and Nagar Haveli¹[and Daman and Diu].**

BOMBAYACT NO. III OF 1947.

AN ACT TO PROVIDE FOR THE CONSTITUTION OF HOME GUARDS.

Whereas it is expedient to provide a voluntary organization for use in emergencies and for other purposes in the²[Union Territory of Dadra and Nagar Haveli and Daman and Diu], it is hereby enacted follows: -

1. **Short title, extent and commencement.** —(1) This Act may be called the Bombay Home Guards Act, 1947.

(2) It extends to the whole of the Union territory of Dadra and Nagar Haveli ³[and Daman and Diu].

(3) It shall come into force at once.

1A.**Definition.** — In this Act, unless the context otherwise requires –

“Administrator” means the Administrator of the Union territory of Dadra and Nagar Haveli ⁴[and Daman and Diu].

2. **Constitution of Home Guards and appointment of Commandant General and Commandant.** — (1) The Administrator shall constitute for the Union territory of Dadra and Nagar Haveli ⁵[and Daman and Diu] a volunteer body called the Home Guards, the members of which shall discharge such functions and duties in relation to the protection of persons, the security of property, ⁶[the maintenance of essential services] and the public safety as may be assigned to them in accordance with the provisions of this Act and the rules made there under :

Provided that the Administrator may by notification in the official Gazette divide the Union territory of Dadra and Nagar Haveli ⁷[and Daman and Diu] into two or more areas and constitute such volunteer body for each such area.

(1A) * * * * *

(2) The Administrator may appoint a Commandant of each of the Home Guard constituted under sub-section (1).

(3) The Administrator shall appoint a Commandant General of the Home Guards

¹Inserted by the Union territory of Dadra and Nagar Haveli and Daman and Diu (Adaptation of Central Law, State Laws and Presidential Regulations) Order dated 18th January 2022, herein after referred to as the Presidential Order, 2022.

²Substituted by the Presidential Order, 2022.

³Inserted by the Presidential Order, 2022.

⁴Inserted by the Presidential Order, 2022.

⁵Inserted by the Presidential Order, 2022.

⁶Inserted by the Presidential Order, 2022.

⁷Inserted by the Presidential Order, 2022.

in whom shall vest the general supervision and control of the Home Guards throughout the Union territory of Dadra and Nagar Haveli ⁸[and Daman and Diu] and until a Commandant is appointed under sub-section (2), the Commandant General may also exercise the powers and perform the functions assigned to the Commandant by or under this Act.

3. **Appointment of members.** —(1) Subject to the approval of the Commandant General the Commandant may appoint as members of the Home Guards such number of persons, who are fit and willing to serve, as may from time to time be determined by the Administrator, 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 General may, subject to the approval of the Administrator, appoint any such member to any post under his immediate control.

(3) * * * * *

4. **Functions and duties of members.** —(1) The Commandant may at any time call out a member of the Home Guards for training or to discharge any of the functions or duties assigned to the Home Guards in accordance with the provision of this Act and the rules made there under.

(2) The Commandant General may in an emergency call out a member of the Home Guards for training or to discharge any of the said functions or duties in any part of the Union territory of Dadra and Nagar Haveli ⁹[and Daman and Diu].

5. **Powers, protection and control.** —(1) A member of the Home Guards when called out under section 4 shall have the same powers, privileges and protection as an officer of police appointed under any Act for the time being in force.

(2) No prosecution shall be instituted against a member of the Home Guards in respect of anything done or purporting to be done by him in the discharge of his functions or duties as such member except with the previous sanction of the District Magistrate.

6. **Control by officers of police force.** — The members of the Home Guards when called out under section 4 in aid of the police force shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed by rules made under section 8.

6 A. **Certificate, arms, etc., to be delivered up by person ceasing to be member. -**

(1) Every person who for any reason ceases to be a member of the Home Guards shall forthwith deliver up to the Commandant, or to such person and at such place as the Commandant may direct, his certificate of appointment or of office and the arms, accoutrements clothing and other necessaries which have been furnished to him as such member.

⁸Inserted by the Presidential Order, 2022.

⁹Inserted by the Presidential Order, 2022.

(2) Any Magistrate and for special reasons which shall be recorded in writing at the time, any police officer not below the rank of a Deputy Superintendent of Police may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessaries not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, ¹⁰[1973 (2 of 1974)], by a police officer or if the Magistrate or the police officer issuing the warrant so directs by any other person.

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

6B. Punishment of members for neglect of duty etc. —(1) The Commandant shall have the authority to suspend, reduce or dismiss or fine, to an amount not exceeding ¹¹[one thousand]rupees, any member of the Home Guards, under his control, if such member, without reasonable cause, on being called out under section 4 neglects or refuses to obey such order or to discharge his functions and duties as a member of Home Guards or to obey any lawful order or direction given to him for the performance of his functions and duties or is guilty of any breach of discipline or misconduct. The Commandant shall also have the authority to dismiss any member of the Home Guards on the ground of conduct which has led to his conviction on a criminal charge. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(1A) Notwithstanding anything contained in this Act the Commandant shall have the authority to discharge any member of the Home Guards at any time subject to such conditions as may be prescribed if, in the opinion of the Commandant, the services of such member are no longer required. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(2) When the Commandant General or the Commandant passes an order for suspending, reducing, dismissing or fining any member of the Home Guards under sub-section (1), he shall record such order or cause the same to be recorded, together with the reasons therefor and a note of the inquiry made in writing and no such order shall be passed by the Commandant General or the Commandant unless the person concerned is given an opportunity to be heard in his defence.

(3) Any member of the Home Guards aggrieved by an order of the Commandant may appeal against such order to the Commandant General and any such member aggrieved by an order of the Commandant General may appeal against such order to the Administrator within thirtydays of the date on which he was served with notice of such order. The Commandant General or the Administrator as the case may be, may pass such order as the think fit.

(4) The Commandant General or the Administrator may at any time call for and examine the record of any order passed by the Commandant or Commandant General, respectively, under sub-section (1) or (1A) for the purpose of satisfying himself as to

¹⁰ "1898 (5 of 1898)" substituted by the Presidential Order, 2022.

¹¹ "fifty" substituted by the Presidential Order, 2022.

the legality or propriety of such order passed by the Commandant or the Commandant General, as the case may be, and may pass such order with reference thereto as he thinks fit.

(5) Every order if no appeal is made therefrom as hereinbefore provided and every order passed in appeal or revision under this section shall be final.

(6) Any fine imposed under this section may be recovered in the manner provided by the Code of Criminal Procedure, ¹²[1973 (2 of 1974)] for the recovery of fines imposed by a Court as if such fine were imposed by a Court.

(7) Any punishment inflicted on a member of the Home Guards under this section shall be in addition to the penalty to which such member is liable under section 7 or any other law for the time being in force.

Explanation. —Where the Commandant General, while exercising the powers of the Commandant, passes any order under sub-section (1) or sub-section (1A) –

(a) the appeal from such order shall lie to the Administrator;

(b) for the purpose of sub-section (4), the power of revision in respect of such order shall vest in the Administrator.

7. Penalty. — (1) If any member of the Home Guards, on being called out under section 4, without reasonable excuse, neglects or refuses to obey such order, or to discharge his functions as a member of the Home Guards, or to obey any lawful order or direction given to him for the performance of his duties, 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 ¹³[five thousand] or with both.

(1A) If any member of the Home Guards willfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provisions of sub-section (1) of section 6A, he shall, on conviction, be punished with imprisonment for a term which may extend to one month with fine which may extend to ¹⁴[two thousand] rupees or with both.

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

(3) A police officer may arrest without warrant any person who commits offence punishable under sub-section (1) or (1A).

8. Rules. —The Administrator may make rules consistent with this Act, —

(a) providing for the exercise by any officer of the Home Guards of powers conferred by section 4 on the Commandant and the Commandant General;

¹²“1898 (5 of 1898)” substituted by the Presidential Order, 2022.

¹³“two hundred and fifty” substituted by the Presidential Order, 2022

¹⁴“one hundred” substituted by the Presidential Order, 2022

(b) providing for the exercise of control by officers of the police force over members of the Home Guards when acting in aid of the police force;

(c) regulating the organization, appointment, conditions of service, functions, discipline, arms, accoutrement and clothing of members of the Home Guards and the manner in which they may be called out for service;

(d) regulating the exercise by members of the Home Guards of any of the powers exercisable under section 5 of this Act;

(e) generally, for giving effect to the provisions of this Act.

9. **Members of Home Guards to be public servants.** — Members of the Home Guards acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1960).

9A. **Home guards not disqualified from contesting elections to local bodies.** —

(1) * * * * *

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

10. * * * * *

By order and in the name of the
Administrator of U.T. of Dadra &
Nagar Haveli and Daman & Diu.

Secretariat,
Daman.

Dated: 22nd March, 2022

Sd/—
(Rohit P. Yadav)
Law Secretary
Department of Law & Justice
