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## NOTIFICATION

No. LJD. 1/85/(B)/42, Aizawl the 25th Aug., '86. The following Act of the Mizoram Legislative Assembly received the assent of the President is hereby Published for general information.

The Mizoram Act No. 4 of 1986

The Mizoram Home Guard Act, 1985.

(Received assent of the President of India on 5th Aug., 1986).

## INDEX OF CLAUSES

	Pages
1. Short title, extent and commencement.	1
2. Definitions	1
3. Constitution of Home Guards and appointment of Commandant General and Commandant	2
4. Appointment of Home Guards and forms of declaration and certificate of appointment as such	3
5. Discharge of Home Guards	3
6. Reserve force of Home Guards	4
7. Training, functions and duties	4
8. Powers, protection and control	4
9. Control by Officers of police force	4
10. Certificate, arms, etc. to be delivered up by person ceasing to be Home Guards	4
11. Punishment for neglect of duty, etc.	5
12. Penalties for breach of duties etc.	7
13. Power to make rules	8
14. Home Guards to be public servants	9
15. Home Guards not disqualified from election to State Legislature or local bodies	9
16. Repeal and Saving.	9

## AN

## ACT

to provide for the constitution of a volunteer organisation known as the Home Guards for Service in emergencies and for certain other purposes so as to inculcate habits of self-reliance and discipline among the people and to develop in them a sense of civic responsibility.

BE it enacted by Mizoram Legislative Assembly in the Thirty-Sixth Year of the Republic of India as follows, namely:—

Short title, extent and commencement

1. (1) This Act may be called the Mizoram Home Guards Act, 1985.
- (2) It extends to the whole of the Union territory of Mizoram.
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different Districts.

Definitions

2. In this Act, unless the context otherwise requires—
  - (a) “Commandant” means the District Commandant of Home Guard; and “Commandant General” shall be construed accordingly;
  - (b) “District Magistrate” includes an Additional District Magistrates;
  - (c) “Government” means the Administrator of the Union territory of Mizoram, appointed by the President under article 239 of the constitution;
  - (d) “Home Guard” means a person who is appointed as such under this Act;
  - (e) “prescribed” means prescribed by rules made under this Act;
  - (f) “Union territory” means the Union territory of Mizoram.

Constitution of Home Guards and appointment of Commandant General and Commandant

3. (1) The Government shall, by notification in the Official Gazette, constitute for each District in which this Act has been brought into force, 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, the public safety and the maintenance of essential

services as may be assigned to them accordance with the provisions of this Act and the rules made thereunder.

(2) The administration of Home Guards constituted under sub-section (1) for any District shall, under the general superintendence, control and direction of the District Magistrate, be vested in the Commandant, who shall be appointed by the Government and in any such Additional, Deputy or Assistant Commandants as the Government may deem fit to appoint.

(3) The general supervision and control of Home Guards throughout the Union territory shall vest in the Commandant General who shall be appointed by the Government and in any such Additional Commandants General, Deputy Commandants General or Assistants Commandant General as the Government may deem fit to appoint.

(4) The Home Guards constituted for different Districts in the Union territory, shall, for the purpose of this Act, be a single force and the members thereof shall be formally enrolled, and such force shall consist of such number of officers and men, and their qualifications and conditions of training and service shall be such, as may be prescribed.

Appointment of Home  
Guards and forms of  
declaration and certificate  
of appointment as such.

4. (1) Subject to the approval of the Commandant General, a Commandant may appoint as Home Guards such number of persons who are fit and willing to serve as may from time to time be determined by the Government and may appoint any such person to any office of commandant in the Home Guards.

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

(3) A Home Guard shall, on appointment, make a declaration in the form specified in the Schedule and receive a certificate of appointment in the form specified in the Second Schedule, under the seal and signature of such officer as may be prescribed.

(4) Subject to any rules made in this behalf, a Home Guard shall be required to serve the Home Guard organisation for a period of three years (including the period spent in training) which period may be extended by the Government to such further period as it may consider necessary, and a Home Guard shall thereafter serve in the reserve force of Home Guards constituted as hereinafter provided for a period of three years and shall, while serving in such reserve force, be liable to be called out for duty at any time.

- Discharge of Home Guards.
5. Notwithstanding anything contained in sub-section (4) of section 4, the Commandant General or a Commandant shall have authority to discharge any Home Guards at any time subject to such \_\_\_\_\_ be prescribed, if in his opinion, the services of such Home Guard are no longer required.
- Reserve force of Home Guards
6. The Government may constitute a reserve force of Home Guards consisting of persons appointed by the Government from among the Home Guards discharged from the regular service of Home Guards under sub-section (4) of section 4.
- Training functions and duties.
7. (1) The Commandant General may, at any time, call out a Home Guard for training or to discharge within the Union territory, any of the functions or duties as may be assigned in accordance with the provisions of this Act and the rules made thereunder.
- (2) The District Magistrate or the Commandant may, at any time, call out a Home Guard for training or to discharge any such functions or duties within the district for which the Home Guards have been set up.
- Powers, protection and control.
8. (1) A Home Guard when called out, under section 7 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 Home Guard in respect of anything done or purporting to be done by him in the discharge of his functions or duties as such Home Guard, except with the previous sanction of the Commandant General.
- Control by officers of police force.
9. The Home Guards may be called out in aid of the police force and when they are so called out, they shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed.
- Certificate, arms, etc. to be delivered up by person ceasing to be Home Guards.
10. (1) Every person, who, for reason ceases to be a Home Guard. 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, accountments, clothing and other necessaries which have been furnished to him as such Home Guard.
- (2) Any Magistrate or, for special reasons which shall be recorded in writing at the time, any police officer, not below the rank of an Assistant Superintendent or Deputy Superintendent of Police may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, account-

Central Act No. 2  
of 1974.

rements, clothing of other necessaries not so delivered up; and every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1973 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.

Punishment for neglect  
of duty, etc.

11. (1) The commandant or the Commandant General shall have authority to suspend, to reduce in rank, to dismiss or to fine not exceeding fifty rupees, any Home Guard under his control, if such Home Guard, on being called out under section 7, without reasonable cause, neglects or refuses to obey such order or refuses to discharge his functions and duties as a Home Guard or refuses to obey any other lawful order or or direction given to him for the performance of his functions and duties or is found guilty of any misconduct or breach of discipline.
- (2) The Commandant General shall also have authority to dismiss any home Guard on the ground of conduct which has led to his conviction on a criminal charge.
- (3) When the Commandant or the Commandant General passes, after inquiry, an order suspending, reducing in rank, dismissing, or finding any Home Guard under sub-section (1), he shall record such order or cause the same to be recorded together with the reasons therefore and a note of the inquiry made, in writing, and no such order shall be passed unless the person concerned has been given an opportunity to be heard in his defence.
- (4) Any Home Guard aggrieved by such order of the Commandant may appeal against that order to the Commandant General, and any Home Guard aggrieved by such order of the Commandant General may appeal to the Government, within thirty days of the date on which he was served with notice of the concerned order, and thereupon the Commandant General or the Government, as the case may be, may pass such orders as he or it thinks fit.
- (5) The Commandant General or the Government may, at any time call for and examine the record of any order passed by the Commandant or the Commandant General, as the case may be, under sub-section (1) for the purpose of satisfying himself or itself as to the legality or propriety of such order and may pass such order in revision with reference thereto as he or it thinks fit.

(6) Notwithstanding contained in any other law—

- (a) any order passed in revision under sub-section (5),
- (b) subject to such order in revision, any order passed in appeal under sub-section (4), and,
- (c) subject to the orders in revision and appeal aforesaid, any order passed by the Commandant or Commandant General under sub-section (3) shall be final.

Central Act No. 2  
of 1974

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

(8) Any punishmentt inflicted on a Home Guard under this section shall be in addition to the penalty to which he is liable under section 12 or any other law for the time being in force.

Penalties for breach  
of duties etc.

12. (1) If any Home Guard, on being called out under section 7, without reasonable excuse, neglects or refuses to turn up for training or refuses to discharge his functions and duties as a Home Guard or refuses to obey any other lawful order or direction given to him for the performance of his duties and functions, 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 Home Guard wilfully 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 10, shall, on conviction, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

(3) A police officer not below the rank of an Inspector of Police may arrest without warrant any person who commits an offence punishable under sub-section (1) or sub-section (2).

(4) No proceedings shall be instituted in any court under sub-section (1) or sub-section (2) without the previous sanction of the Commandant General.

(5) No court inferior to that of the court of a Magistrate of the first class shall try any offence punishable under this Act.

Power to  
makes rules

13. The Government may make rules consistent with this Act —

- (a) regulating the powers exercisable by the Commandant General, the District Magistrate and the Commandant under section 7 and providing for the exercise, by any officer of the Home Guards, of the said powers ;
- (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 organisation, appointment, conditions of service, qualifications, functions, duties, discipline, arms, accoutrements and clothing and uniform of the Home Guards and the manner in which they may be called out for service or be required to undergo any training ;
- (d) regulating the exercise by member of the Home Guards of any of the powers exercisable under section 8 ;
- (e) generally for giving effect to the provisions of this Act.

Home Guards  
to be  
public  
servants.

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

Central  
Act No.  
45 of  
1860

Home Guards  
not disqua-  
lified from  
election to  
State Legis-  
lature or  
local bodies.

15. (1) A Home Guard shall not be disqualified for being chosen as, and for being, a member of the Legislature of the Union territory merely by reason of the fact that he is a Home Guard.

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

Repeal and  
Saving

16. (1) The Assam Home Guards Act, 1947 so far as it relates to the Union territory of Mizoram is hereby repealed.

Assam Act  
No. XXIV

(2) Notwithstanding such repeal, anything done or any action taken under the Assam Home Guards Act, 1947, so far as it relates to the Union territory of Mizoram, shall be deemed to have been done or taken under this Act.

Assam Act  
No. XXIV  
of 1947

THE FIRST SCHEDULE

(see section 4 (3) )

Form of Declaration

I ..... son of .....

resident of ..... do hereby solemnly declare and affirm that I will truly serve as a Home Guard without favour or affection, malice or ill-will, communal or political bias, for a period of three years from the date of appointment including the period spent over training and that I further undertake to serve as a Home Guard at any time or any place in India during a further period of three years, if I am called out for training or duty during such period I will, to the best of my skill and knowledge, discharge the duties of a Home Guard.

Place .....

Date ..... Signature

THE SECOND SCHEDULE

(see section 4 (3) )

Form of certificate of appointment

Shri ..... son of Shri .....

resident of ..... has been appointed a Home Guard under section 4 (3) of the ..... Home Guards

Act, ..... When lawfully on duty, he shall have the same powers, privileges and protection as on officer of police appointed under any enactment for the time being in force.

Place ..... Date of appointment .....

Date ..... Signature and seal of the prescribed authority