

THE JAMMU AND KASHMIR

FOREST (PROTECTION) FORCE ACT, 2001

ACT NO. VI OF 2001

[12th April, 2001 .

An Act to provide for the constitution of Forest Protection Force for better protection and security of the forest property and for matters connected therewith or incidental thereto. Be it enacted by the Jammu and Kashmir State Legislature the *Fifty-second* Year of the Republic of India as *follows*:

1. Short title, extent and commencement

- (1) This Act may be called the Jammu and Kashmir Forest protection) Force Act, 2001.
- (2) It shall extend to the whole of the Jammu and Kashmir State.
- (3) It shall come into force on such datel as may be specified by notification in the Jammu and Kashmir Government Gazette.

2. Definitions

In this Act, unless the context otherwise requires,

- (a) "Director" means the Director of the Force appointed under sub-section (1) of 4;
- (b) "Force" means the Jammu and Kashmir Forest Protection Force constituted under section 3;
- (c) "Force Custody" means the arrest or confinement of a *Member of the Force in accordance with rules made under this Act*;
- (d) Forest property includes,
 - (i) "demarcated forest", "undemarcated forest", "village forests", "forest produce" as defined in the Jammu and Kashmir Forest Act, Samvat, 1987;
 - (ii) "Government property" as defined in the Jammu and Kashmir Wildlife (Protection) Act, 1978;
 - (iii) Any other movable or immovable property in which the Forest Department or other related organizations have any interest;
- (e) "Government" means the Government of Jammu and Kashmir;
- (f) "Member of the Force" includes every person appointed or deputed to the Force;
- (g) "Prescribed" means prescribed by rules made under this Act;
- (h) words and expressions used but not defined in this Act, shall have the meaning as assigned to them in the Jammu and Kashmir Wildlife (Protection) Act, 1978 or the Jammu and Kashmir Forest Act, Samvat 1987.

3. Constitution of the Force

- (1) There shall be an armed force of the State called the Forest Protection Force for better protection and security of the forest property.
- (2) The Force shall be the Department of the Government on the pattern of Police Department in the State.
- (3) The Force shall be constituted in such manner and shall consist of such ranks and number of members as may be prescribed.
- (4) Every Member of the Force shall be entitled to such pay and other allowances as may be prescribed.

4. Appointment of Officers and other ranks of the Force

The Government may depute, from the Forest Department, persons to be the Director, the Joint Directors and Deputy Directors of the Force and appoint or cause to be appointed persons to other ranks of the Force.

5.. Certificates to Members of the Force

1) Every Member of the Force shall receive a certificate in the form specified *in the Schedule*, under the seal of the Director or such other officer as the Director may specify in this behalf, by virtue of which the *person* holding such certificate shall be vested with the *power and privileges* of a Member *of the Force*.

2) *such certificate shall cease to have effect* whenever the person named in it ceases for any reason to be a Member of the Force.

6. Superintendence, control and administration of the Force

1) The superintendence of the Force shall vest in the Government, and subject thereto and to the provisions of this Act and of any rules made thereunder, the command, supervision and administration of the Force shall vest in the Director.

2) Subject to the provisions of" sub-section (1), the administration of the Force, within such local limits as may be prescribed, shall be carried on by a Joint Director, a Deputy Director or an Assistant Director in accordance with the provisions of this Act and of any rules made thereunder and he shall, subject to any direction that may be given by the State Government or the Director of the Force, in this behalf, discharge his functions keeping close liaison with his counter part having territorial jurisdiction.

7. Dismissal, removal etc. of Members of the Force

1) Subject to the provisions of section 126 of the Constitution of Jammu and Kashmir and to such rules as the Government may make under this Act, the Director may dismiss, suspend or reduce in rank. Any Member of the Force not above the rank of Assistant Director whom he thinks remiss or negligent in the discharge of his duty, or unfit for the same.

2) Any Superior Officer not below the rank of Deputy Director **may** award anyone or more of the following punishments to any member of the Force who discharges his duty in a careless or negligent manner, or who by any act of his own renders himself unfit for the discharge thereof, namely:

(a) fine to any amount not exceeding fifteen days basic pay;

(b) confinement to quarters for a period not exceeding fifteen days, with or without punishment, drill, extra guard, fatigue or other duty. The order shall be subject to confirmation by the Joint Director and in case of Joint Director issuing the punishment order, it shall be subject to confirmation by the Director of the Force.

8. Appeal and revision

(1) Any Member of the Force aggrieved by an order made under sub-section (1) or clause (a) of sub-section (2) of section 7 may, within thirty days from the date on which the order is communicated to him prefer an appeal against the order to the

(i) Government if the punishment has been awarded by the Director; and.

(ii) Director if the punishment has been awarded by any other Member of the Force.

(2) The Government or the Director as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) In disposing of an appeal, under sub-section (1) such procedure shall be

followed as may be prescribed:

Provided no order imposing an enhanced penalty under sub-section (2) shall be made unless reasonable opportunity of being heard has been given to the person affected by such order.

9. Duties of the Members of the Force

It shall be the duty of every Member of the Force to:-

- (a) Promptly to obey and execute all orders lawfully issued to him by his superior authority;
- (b) protect and safeguard forest property;
- (c) assist, on requisition, a Forest Officer or an officer of the Wildlife Department or an officer of the Soil Conservation Department having territorial jurisdiction when such requisition is for the protection of forest property;
- (d) perform patrolling in the vulnerable areas on systematically drawn plans and to take such necessary steps required to protect the forest property with the help of territorial staff or of its own depending upon the exigencies of the situation;
- (e) detect and to bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend and for whose *apprehension* sufficient ground *exists*; *provided* that the territorial staff *not* below the rank of Range Officer is informed; and
- (f) *to take up such special assignment as may* be entrusted to the Force *by* the Government from *time to time*.

10. Power to arrest with out warrant- and procedure to be followed:-

- 1) Any Member of the Force not below the rank of Assistant Director, may without an order from a Magistrate and without warrant, arrest any person *who*
 - (i) commits or attempts to commit a cognizable offence under the Jammu and Kashmir Forest Act, Samvat 1987 and the Jammu and Kashmir Wildlife (Protection) Act, 1978;
 - (II) *voluntarily causes* hurt to, or *attempts* voluntarily to cause hurt to, or wrongfully restrains or attempts wrongfully to restrain or assaults, threatens to assault, or uses or threatens or attempts to use, criminal force to him or any other Member of the Force in the execution of his duty **as** such Member, or with intent to prevent or to deter him from discharging his duty as such Member, or in consequence of any thing done or attempted to be done by him, in the lawful discharge of his duty **as** such Member; or
 - (III) has been concerned in, or against whom a reasonable suspicion exists of his having been concerned in, or who is found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence which relates to forest property.
- (2) The arrestee shall be produced before the nearest Magistrate "within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate and he shall not be detained in custody beyond the said period without the authority of Magistrate.
 - (3) Subject to the provisions of sub- section (2), any Member of the force making an arrest under this Act shall without unnecessary delay take the arrestee to the nearest Police Station with report of circumstances occasioning the arrest for his eventual custody in the police lock-up.
 - (4) The Members of the Force carrying out the arrest should bear accurate, visible

and clear identification and name tags with their designation.

(5) The Member of the Force carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of the arrest and such memo shall be attested by at least one witness who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.

(6) A person who has been arrested or detained and is being held in custody in a police station shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place unless the attesting witness of the memo of arrest is himself such friend or relative of the arrestee.

(7) The person arrested shall be made aware of his right to have someone informed of his arrest as soon as he is put under arrest.

(8) Copies of all the documents including the memo of arrest, referred to above, shall be sent to the Magistrate for his record.

(9) The provisions of the Code of Criminal Procedure Samvat, 1989, relating to arrests under that Code shall so far as may be, apply to arrests under this Act.

11. Powers to search without warrant :-

(1) Whenever any Member of the Force not below the rank of Assistant Director has reason to believe that any such offence as is referred to in section 10 is being committed and that a search warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence, he may detain him and search his person and belongings forthwith and, if he thinks proper, arrest any Person whom he has reason to believe to have committed the offence.

(2) The provisions of the Code of Criminal Procedure, Samvat 1989, relating to searches under that Code shall so far as may be, apply to searching under this Act.

12. Members of the Force to be considered always on duty:-

1) Every Member of the Force shall, for the purposes of this Act, be considered to be always on duty.

2) No Member of the Force shall engage himself in any employment or office other than his duties under this Act.

13- Restrictions respecting right to form associations etc.:-

1) No Member of the Force shall:

(a) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade unions, labour unions, or political associations; or

(b) be a member of, or be associated in any way with, any other society, institution, association or organisation that is not recognised as part of the Force or is not of a purely social, recreational or religious nature; or

(c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the bona fide discharge of his duties or is of a purely literary, artistic, or scientific character.

Explanation. - If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b), the decision of the Government thereon shall be final.

(2) No Member of the Force shall participate in, or address any meeting or take part in any demonstration organised by any body or persons for any political purposes or for such other purposes as may be prescribed.

14. Responsibilities of Members of the Force during suspension:-

A Member of the Force shall not by reason of his suspension from office cease to be Member of the Force; and he shall, during that period, be subject to the same responsibilities, discipline and penalties to which he would have been subjected if he was on duty.

15. Surrender of certificates, Arms etc., by persons ceasing to be Members of the Force :-

(1) Every person who for any reason ceases to be a Member of the Force, shall forthwith surrender to any superior officer empowered to receive the same, his certificate issued under section 5, the arms, accoutrements, clothing and other articles which have been furnished to him for performance of duties as a Member of the Force.

(2) Any person who willfully neglects or refuses to surrender his certificate of appointment, the arms, accoutrements, clothing and other articles furnished to him, as required by sub-section (1), shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

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

16. Penalties for neglect of duty etc.-

(1) Without prejudice to the provisions contained in section 7, any Member of the Force who shall be guilty of any violation of duty or willful breach or neglect of any rule or lawful order made by a superior authority, or who shall withdraw from duties of his office without permission, or who, being absent on leave, fails; without reasonable cause, to report himself for duty on the expiration of the leave, or who engages himself without authority for any employment other than his duty as a Member of the Force or who shall be guilty of cowardice may be taken into Force Custody and shall be convicted by a Judicial Magistrate having jurisdiction with imprisonment which may extend to one year or with fine which may extend to five thousand rupees or with both.

(2) Notwithstanding anything contained in the Code of Criminal procedure, Samvat 1989, an offence punishable under this section shall be cognizable and non-bailable.

(3) Nothing contained in this section shall be construed to prevent any Member from being prosecuted under any other law for any offence made punishable by that law, or being liable under any such law to any other or higher penalty or punishment than is provided for such offence by this section.

17. Protection of acts of Members of the Force

1) No suit or criminal proceeding or other legal proceeding shall be initiated against any Member of the Force for anything done by him in good faith under this Act.

2) No Court shall take cognizance of any offence alleged to have been committed by a Member of the Force while acting or purporting to act in the discharge of his official duty except with the previous sanction of the Government or such other authority as the Government may, by notification in the Government Gazette, appoint in this behalf.

3) In any suit or proceeding against any Member of the Force for any act done by him in the discharge of his duties, it shall be lawful for him to plead that such act was done by him under the orders of a superior authority.

4) Any such plea may be proved by the production of the order directing the act, and if it is so proved, the Member of the Force shall thereupon be discharged from liability in respect of that act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such order.

18. Power to make rules

1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for :-

- a) regulating the classes, ranks, grades, pay, remuneration and other service conditions of Members of the Force;
 - b) regulating the powers and duties of Members of the Force authorized to exercise any functions by or under this Act;
 - (c) Prescribing the description, quantity and maintenance of arms, accoutrements, clothing and other necessary articles to be furnished to the Members of the Force;
 - (d) prescribe conditions for use of arms and ammunition by any Member of the Force while performing his duties under this Act.
 - (e) prescribing the places of residence of the Members;
 - (f) Institution, management and regulations of any fund for any purpose connected with the administration of the Force;
 - (g) regulating the punishment, awards, compensation and ex-gratia payments to Member of the Force and the procedure to be followed for the disposal of such cases;
 - (h) Regulating matters with respect to Force custody under this Act, including the procedure to be followed for taking persons into such custody;
 - (i) Regulating matters with respect to disposal of cases relating to investigation;: arrest, custody, trial and punishment of offences trial or punishable under this Act; and
 - (j) any other matter which has to be, or may be, prescribed, or in respect of which rules are required to be made under this Act
- (3) No rule under clauses (c) and (d) of sub-section (2) shall be made except the prior consultation of the Home Department.
- (4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and. if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.