



## THE SOLDIER (LITIGATION) ACT, 1925



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# THE SOLDIERS (LITIGATION) ACT, 1925

<sup>1</sup>ACT No. IV of 1925

[26th February, 1925]

**An Act to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of <sup>2</sup>\*soldiers serving under special conditions.**

WHEREAS it is expedient to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of <sup>2</sup>\* soldiers serving under special-conditions ; It is hereby enacted as follows :-

**1. Short title, extent and commencement.**—(1) This Act may be called the <sup>2</sup>\*Soldiers (Litigation) Act, 1925.

<sup>3</sup>[(2) It extends to the whole of Pakistan.]

(3) It shall come into force on the first day of April, 1925.

**2. Definition.** In this Act, unless there is anything repugnant in the subject or context,—

(a) “Court” means a Civil or Revenue Court ;

<sup>4</sup>[(aa) “Northern Areas” means Gilgit Agency including four Political Districts of Poonch, Ashkoman, Gupis and Yasin, Gilgit and Astore Sub-divisions, Chilas Sub-Agency, Darel-Tangir Sub-Agency and the States of Hunza and Nagar, and Baltistan Agency comprising Skardu, Shigar, Khaplu, Kharmonig, Rondu and Gultari Valleys ;].

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<sup>1</sup>For statement of Objects and Reasons, see Gazette of India, 1924, Pt. V, p. 119.; and for Report of Select Committee, see *ibid.*, 1925, Pt. V, p. 11.

This Act has been applied to—

(i) Tribal Areas beyond the western and northern boundaries of the N.-W.F.P., in so far as the same may be applicable and subject to certain modification, see Gazette of India, 1940, Ext. p. 643;

(ii) the Baluchistan by Notfn. No. 18-F., dated the 24th January, 1938, see Gazette of India, 1938, Pt. I, P. 111 : and

The Act has been extended to—

(a) the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950). and also applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499,

(b) the Baluchistan States Union by the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G. G. O. 4 of 1953), as amended;

(c) the Khairpur State, see the Khairpur (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953), as amended:

(d) the State of Bahawalpur, see the Bahawalpur (Extension of Federal Laws) Order, 1953 (G. G. O. 11 of 1953), as amended.

The Act has been and shall be deemed to have been brought into force in Gwadur with effect from the 8th September, 1958, by the Gwadur (Application of Central Laws) Ordinance, 1960 (37 of 1960), s. 2.

<sup>2</sup>The word “Indian” omitted by the Indian Soldiers (Litigation) (Amdt.) Act, 1950 (78 of 1950) s. 2.

<sup>3</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for subsection (2) which had been subs. by Act 78 of 1950, s. 2, for the original sub-section.

<sup>4</sup>Ins. by the Soldiers (Litigation) (Amdt.) Ordinance, 1971 (19 of 1971), s. 2.

(b) “<sup>1</sup>\* soldier” means any person subject to <sup>2</sup>\* \* \* the Pakistan Army Act, 1952,<sup>3</sup> \* \* <sup>2</sup>[or the Pakistan Air Force Act, 1953.

<sup>4</sup>[,or the Pakistan Navy Ordinance, 1961.]

(c) “prescribed” means prescribed by rules made under this Act ; and

(d) “proceeding” includes any suit, appeal or application.

### **3. Circumstances in which a soldier shall be deemed to be serving under special conditions.**

For the purposes of this Act, <sup>5</sup>[a soldier] shall be deemed to be or, as the case may be, to have been serving-

(a) under special conditions-when he is or has been serving under war conditions, or overseas, or at any place in <sup>6</sup>\* \* <sup>7</sup>[ Kashmir or the Northern Areas], or with any unit the headquarters of which are situated at any place in Chitral, Waziristan, the North-West Frontier <sup>8</sup>\* or <sup>9</sup>\* Baluchistan which is more than fifty miles distant by road from the nearest railway station ;

(b) under war conditions-when he is or has been, at any time during the continuance of any hostilities declared by the <sup>10</sup>[Federal Government ] by notification in the <sup>11</sup>[official Gazette] to constitute a state of war for the purposes of this Act or at any time during a period of six months thereafter,-

(i) serving out of <sup>12</sup>[Pakistan],

(ii) under orders to proceed on field service,

(iii) serving with any unit which is for the time being mobilised, or

(iv) serving under conditions which, in the opinion of the prescribed authority, preclude him from obtaining leave of absence to enable him to attend a Court as a party to any proceeding, or when he is or has been at any other time serving under conditions service under which has been declared by the <sup>10</sup>[Federal Government] by notification in the <sup>11</sup>[official Gazette] to be service under war conditions ; and

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<sup>1</sup> The word “Indian” omitted by the Indian Soldiers (Litigation) (Amdt.) Act, 1950 (78 of 1950), s. 2.

<sup>2</sup> The words “The Indian Army Act 1911 or” omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II

<sup>3</sup> The words “or the Indian Air Force Act, 1932” omitted by Ord. 27 of 1981, s. 3 and Sch. II

<sup>4</sup> Ins. *ibid.*

<sup>5</sup> Subs. by Act 78 of 1950, s. 5, for “an Indian soldier”.

<sup>6</sup> The words “Iran, Afghanistan” omitted by the Ord. 27 of 1981, s. 3 and Sch. II.

<sup>7</sup> Subs by the Soldiers (Litigation) ( Amdt.) Ordinance, 1971 (19 of 1971), s. 2, for “or Kashmir”.

<sup>8</sup> The word “Province” omitted by Ordinance 21 of 1960, s. 3 and 2<sup>nd</sup> Sch. (with effect from the 14th October, 1955).

<sup>9</sup> The word “British” omitted by Act 78 of 1950.

<sup>10</sup> Subs. by F. A. O., 1975, Art 2 and Table, for “Central Government” which was previously amended by A. O., 1937, or “G. G. in C.”.

<sup>11</sup> Subs. *ibid.*, for “Gazette of India”.

<sup>12</sup> Subs. by Act 78 of 1950, s. 5, for “India”.

<sup>1</sup>[(c) overseas-

- (i) when he is or has been serving in any place outside Pakistan the journey between which and Pakistan is ordinarily undertaken wholly or in part by sea <sup>2</sup>[or air] [ . ]<sup>3</sup>

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<sup>5</sup>[Explanation.-For the purposes of this section and with effect from the 3rd day of September, 1939, a soldier who is or has been a prisoner of war shall be deemed to be or to have been serving under war conditions.]

**4. Particulars to be furnished in plaints applications or appeals to Court.** If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is <sup>6</sup>[a soldier] who is serving under special conditions, he shall state the fact in his plaint, application or appeal.

**5. Power of Collector to intervene in case of un-represented soldier.** If any Collector has reason to believe that any <sup>7</sup>\* soldier, who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein, the Collector may certify the facts in the prescribed manner to the Court.

**6. Notice to be given in case of unrepresented soldier.**<sup>8</sup>[(1)] If a Collector has certified under section 5, or if the Court has reason to believe, that <sup>9</sup>[a soldier], who is a party to any proceeding pending before it, is unable to appear therein, and if the soldier is not represented by any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding and shall give notice thereof in the prescribed manner to the prescribed authority:

Provided that the Court may refrain from suspending the proceeding and issuing the notice if-

- (a) the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of preemption, or
- (b) the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature.

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<sup>1</sup> Subs. by the Indian Soldiers (Litigation) (Amdt.) Act, 1950 (78 of 1950), for clause (c) as amended by A. O., 1937 and A. O., 1949.

<sup>2</sup> Added by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II.

<sup>3</sup> Subs. by F. A. O., 1975, Art. 2 and Table, for the fullstop.

<sup>4</sup> Sub-clause (II) omitted *ibid*.

<sup>5</sup> Explanation added by the Indian Soldiers (Litigation) (Amdt.) Ordinance, 1942 (64 of 1942), s. 2.

<sup>6</sup> Subs. by Act 78 of 1950, s. 9, for "an Indian soldier"

<sup>7</sup> The word "Indian" omitted, *ibid*.

<sup>8</sup> Re-numbered by the Indian Soldiers (Litigation) (Amdt.) Ordinance, 1942 (64 of 1942), s. 3.

<sup>9</sup> Subs. by the Indian Soldiers (Litigation) (Amdt.) Act, 1950 (78 of 1950), s. 9, for "an Indian soldier".