

Bill No. XXXV of 2011

THE BORDER SECURITY FORCE (AMENDMENT) BILL, 2011

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further to amend the Border Security Force Act, 1968.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Border Security Force (Amendment) Act, 2011.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

47 of 1968. 5

2. In the Border Security Force Act, 1968 (hereinafter referred to as the principal Act), in the long title, after the words “borders of India”, the words “or of any part of the territory thereof” shall be inserted.

Amendment
of long title.

3. In section 2 of the principal Act, in sub-section (1), in clause (a), in sub-clause (ii), after the words “borders of India”, the words “or in any part of the territory thereof” shall be inserted.

Amendment
of section 2.

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Amendment
of section 4.

4. In section 4 of the principal Act, in sub-section (1), after the words “Borders of India”, the words “or of such part of the territory thereof, as the Central Government may, by notification, specify” shall be inserted.

Amendment of
section 139.

5. In section 139 of the principal Act, in sub-section (1),—

(a) in the opening portion, the words “adjoining the borders of India,” shall be 5
omitted;

(b) in clause (i), for the words and figures “the Central Excises and Salt Act, 1944, the Foreigners Act, 1946, the Foreign Exchange Regulation Act, 1947”, the words and figures “the Central Excise Act, 1944, the Foreigners Act, 1946, the Foreign Exchange Management Act, 1999” shall be substituted.

1 of 1944.
31 of 1946.
7 of 1947.
1 of 1944.
10 31 of 1946.
42 of 1999.

STATEMENT OF OBJECTS AND REASONS

The Border Security Force Act, 1968 has been enacted to provide for the constitution and regulation of an Armed Force of the Union for ensuring the security of the borders of India and for matters connected therewith.

2. The long title and section 4 of the aforesaid Act provide that the Border Security Force shall be for ensuring the security of the borders of India. Section 139 of the aforesaid Act contains provisions relating to powers and duties that may be conferred or imposed on the members of the Border Security Force within the local limits of areas adjoining the borders of India.

3. However, the Border Security Force is also deployed in areas other than the borders of India due to various exigencies. Certain exigencies during which the Border Security Force is so deployed are,—

(a) to counter insurgency operations and anti-naxal operations;

(b) for internal security duties, (including duties during elections, communal riots, maintenance of law and order);

(c) to assist during natural calamities.

4. In view of the necessity of deploying the Border Security Force in areas other than the borders of India or its adjoining areas for the exigencies specified in the preceding paragraph, it has become necessary to amend the long title, sections 4 and 139 of the Border Security Force Act, 1968 to enable the Central Government to deploy the said Force in areas other than the borders of India or its adjoining areas.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 8th August, 2011.

P. CHIDAMBARAM

FINANCIAL MEMORANDUM

Clause 4 of the Bill proposes to amend section 4 of the Border Security Force Act, 1968 and clause 5 thereof proposes to amend section 139 of the said Act. The proposed amendments only involve extending the areas of operation of the Border Security Force from the existing border areas to the areas other than border of India or its adjoining areas and to confer on the members of the said Force powers and duties in those areas under various central laws specified in the Act. As the said Force has already been constituted and functioning, no financial implications are involved in the proposed Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill proposes to amend sub-section (1) of section 4 so as to widen its scope by providing that the Border Security Force shall ensure security not only in the border areas but also in other parts of the territory of India. For that purpose, it is proposed to empower the Central Government to notify the territories in which the Border Security Force shall ensure security.

2. The matter in respect of which the said notification may be issued is a matter of procedure and administrative detail, and as such, it is not practicable to provide for it in the proposed Bill itself.

3. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE BORDER SECURITY FORCE ACT, 1968

(47 OF 1968)

An Act to provide for the constitution and regulation of an Armed Force of the Union for ensuring the security of the borders of India and for matters connected therewith.

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Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "active duty", in relation to a person subject to this Act, means any duty as a member of the Force during the period in which such person is attached to, or forms part of, a unit of the Force—

(i) which is engaged in operations against an enemy, or

(ii) which is operating at a picket or engaged on patrol or other guard duty along the borders of India,

and includes duty by such person during any period declared by the Central Government by notification in the Official Gazette as a period of active duty with reference to any area in which any person or class of persons subject to this Act may be serving;

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CHAPTER II

CONSTITUTION OF THE FORCE AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE FORCE

Constitution of the Force.

4. (1) There shall be an armed force of the Union called the Border Security Force for ensuring the security of the borders of India.

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CHAPTER X

MISCELLANEOUS

Powers and duties conferable and imposable on members of the Force.

139. (1) The Central Government may, by general or special order published in the Official Gazette direct that, subject to such conditions and limitations, and within the local limits of such area adjoining the borders of India, as may be specified in the order, any member of the Force may,—

(i) for the purpose of prevention of any offence punishable under the Passport (Entry into India) Act, 1920, the Registration of Foreigners Act, 1939, the Central Excises and Salt Act, 1944, the Foreigners Act, 1946, the Foreign Exchange Regulation Act, 1947, the Customs Act, 1962 or the Passports Act, 1967 or of any cognizable offence punishable under any other Central Act; or

34 of 1920.
16 of 1939.
1 of 1944.
31 of 1946.
7 of 1947.
52 of 1962.
15 of 1967.

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RAJYA SABHA

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further to amend the Border Security Force Act, 1968.

(Shri P. Chidambaram, Minister of Home Affairs)