

CHAPTER 625

ARMY

AN ACT TO PROVIDE FOR THE RAISING AND MAINTENANCE OF AN ARMY AND FOR MATTERS CONNECTED THEREWITH.

Acts
Nos.17 of 1949,
6 of 1962,
32 of 1962,
22 of 1964,
22 of 1971.

[20th October, 1949.]

Short title. **1.** This Act may be cited as the Army Act.

shall, during the period of such service or training, be deemed for all purposes to be officers and soldiers of the Regular Force.

PART I

ORGANIZATION OF THE ARMY

The Army. **2.** (1) There shall be raised and maintained, in accordance with the provisions of this Act and of the regulations made thereunder, an army not exceeding such strength as may, from time to time, be determined by Parliament.

4. The Regular Reserve shall consist of officers who by order of the President are transferred to such reserve from the Regular Force and soldiers who are transferred to such reserve from the Regular Force in accordance with the terms of their enlistment. Regular Reserve.

- (2) The army shall consist of—
 - (a) a Regular Force,
 - (b) a Regular Reserve, and
 - (c) such Volunteer Force and Volunteer Reserve as may be constituted under sections 5 and 6.

5. (1) There may be raised and maintained, in accordance with the provisions of this Act and of the regulations made thereunder, a force of volunteers for the purpose of rendering service under this Act. Volunteer Force.

Regular Force. **3.** (1) The Regular Force shall consist of officers and soldiers who are appointed or enlisted for the purpose of rendering continuous service under this Act during the period of their engagement.

(2) The force of volunteers raised and maintained under this Act shall be called the Volunteer Force.

(2) The Regular Force shall be organized into such corps as may, from time to time, be determined by the President.

(3) The Volunteer Force shall be organized into such corps as may, from time to time, be determined by the President.

(3) Where the whole or any part of the Regular Reserve, Volunteer Force, or Volunteer Reserve is called out, as hereinafter provided, on active service or for military training, the officers and soldiers of such reserve, force, or part so called out

6. There may be organized and maintained a Volunteer Reserve consisting of such officers and soldiers of the Volunteer Force or of any other unit of the army as are transferred to such reserve by order of the President. Volunteer Reserve.

7. The whole or any part of the Regular Reserve, Volunteer Force, or Volunteer Reserve may by order of the President be called out for military training with the whole or any part of the Regular Force during any period specified in such order. Training.

Commander of the Army.

8. (1) The President shall appoint a fit and proper person to command the army.

(2) The person appointed under subsection (1) of this section shall be designated Commander of the Army.

PART II

OFFICERS

Appointment of officers,

9. (1) The officers shall be appointed by commissions under the hand of the President.

(2) Every officer shall upon appointment take and subscribe the prescribed oath, or make and subscribe the prescribed affirmation, before a prescribed officer.

(3) No commission issued by the President under subsection (1) of this section shall become invalid by reason of his death or vacation of office.

Duration of appointments.

10. Every officer shall hold his appointment during the President's pleasure.

Resignation.

11. (1) An officer of the Regular Force or Regular Reserve shall not have the right to resign his commission, but may be allowed by the President to do so.

(2) An officer of the Regular Force or Regular Reserve who tenders the resignation of his commission to the President shall not be relieved of the duties of his appointment until the acceptance of the resignation is notified in the Gazette.

(3) Where an officer of the Volunteer Force or Volunteer Reserve desires to resign his commission on any date, he shall, not less than three months before that date, give the President written notice that he will be resigning his commission on that date.

(4) Where an officer of the Volunteer Force or Volunteer Reserve has, in accordance with subsection (3) of this section, given notice of resignation of his commission, he shall, upon his returning to the prescribed officer in good order (fair wear and tear only excepted) all such arms,

clothing and appointments in his possession as are the property of the army, be entitled to resign his commission—

(a) if he is not on active service, on the date of resignation specified in such notice, or

(b) if he is on active service, immediately after the termination of such service.

12. The promotion and transfer of officers and the grant of leave of absence to them shall be in accordance with such regulations as may be made in that behalf.

Promotion, transfer, and leave.

PART III

SOLDIERS

13. (1) The enlistment of persons as soldiers shall be in accordance with the regulations made in that behalf and shall be conducted by recruiting officers appointed by the President.

Enlistment.

(2) Every person selected for enlistment as a soldier shall appear before a prescribed officer, sign an attestation paper containing the terms of his enlistment, and take and subscribe the prescribed oath or make and subscribe the prescribed affirmation.

(3) The attestation paper referred to in subsection (2) of this section shall be in the prescribed form.

14. (1) Subject to the provisions of section 20, the enlistment of a person as a soldier of the Regular Force shall—

Original enlistment, and re-engagement.

(a) be for the prescribed period which shall be called the period of original enlistment, and

(b) be entirely for service in such force or partly for such service and partly for service in the Regular Reserve.

(2) A soldier may, before the expiry of the period of his original enlistment, be re-engaged for a further period of military service not exceeding the prescribed maximum period of re-engagement.

Reckoning and forfeiture of service.

15. (1) Subject to the provisions of subsection (2) of this section, the service of a soldier of the Regular Force for the purpose of discharge or of transfer to the Regular Reserve shall be reckoned from the date of his signing the attestation paper.

(2) Where a soldier has been guilty of the military offence of desertion or of fraudulent enlistment, then either upon his conviction by a court martial of such offence, or (if, having confessed such offence, he is liable to be tried by a court martial) upon his trial by a court martial being dispensed with by order under section 149, the whole of his prior service shall be forfeited, and he shall be liable to serve as a soldier for the period of his original enlistment, reckoned from the date of such conviction or such order dispensing with trial, in like manner as if he had been enlisted on that date :

Provided that all or any part of the service of a soldier forfeited under this subsection may, in accordance with such regulations as may be made in that behalf, be restored to him if he performs good and faithful service or is otherwise deemed to merit the restoration of such service.

Promotion, transfer, discharge, &c.

16. (1) The promotion, transfer, discharge, and dismissal of soldiers, and the grant of leave of absence to them shall be in accordance with the regulations made in that behalf.

(2) Where a soldier of the Volunteer Force or Volunteer Reserve desires to obtain his discharge from such force or reserve on any date before the expiry of the period for which he has volunteered to serve in such force or reserve, he shall, not less than three months before such date, make a written request to his commanding officer for such discharge ; and, if he makes such request, he shall, subject to the provisions of section 20, be entitled to be discharged from such force or reserve on such date, upon his returning to the prescribed officer in good order (fair wear and tear only excepted) all such arms, clothing and appointments in his possession as are the property of the army.

Reduction to rank of private.

17. A non-commissioned officer sentenced by a court martial to field

punishment, imprisonment, or detention shall be deemed to be reduced to the rank of private.

PART IV

SERVICE

18. The Regular Force shall at all times be liable to be employed on active service. Employment of Regular Force.

19. (1) Subject to the provisions of subsection (2) of this section, the President may— Employment of Regular Reserve, Volunteer Force, and Volunteer Reserve.

- (a) for the defence of Sri Lanka in time of war, or
- (b) for the prevention or suppression of any rebellion, insurrection or other civil disturbance in Sri Lanka, or
- (c) for the performance of such duties as are referred to in section 23,

by Proclamation or, where the circumstances render it impossible to issue a Proclamation, by order call out on active service the whole or any part of all or any of the following units of the army:—

- Regular Reserve;
- Volunteer Force;
- Volunteer Reserve.

(2) No member of the Volunteer Force or Volunteer Reserve shall, for the purpose mentioned in paragraph (c) of subsection (1) of this section, be called out on active service unless the Regular Force and the Regular Reserve are considered by the President to be inadequate for that purpose.

(3) If Parliament is sitting at the date of issue of a Proclamation or an order under subsection (1) of this section, the President shall forthwith communicate to Parliament the reason for issuing the Proclamation or order. If Parliament is not then sitting the President shall summon Parliament to meet as soon as possible but not later than thirty days after the aforesaid date, and shall, at the first sitting of Parliament after it is summoned, communicate the aforesaid reason.

(4) All officers and soldiers of any such part of the army as is called out on active service under subsection (1) of this section shall be deemed to be on such service until the President terminates such service by Proclamation.

Prolongation of service in the army.

20. Where the time at which a soldier is entitled to be discharged from the army occurs during the period when the whole or any part of the army is on active service, the President may by order prolong the service of that soldier in the army for such period.

Relations between military and naval and air forces of Sri Lanka acting together.

21. (1) Where an officer or a petty or non-commissioned officer of any naval or air force of Sri Lanka is attached to, or is a member of any naval or air force of Sri Lanka which is acting with, any part of the army under such conditions as may be prescribed, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to that part of the army, be treated as, and have all the powers (other than the powers of punishment) vested in, an officer or a non-commissioned officer of the army as the case may be.

(2) Where an officer or a soldier of the army is attached to, or is a member of any part of the army acting with, any naval or air force of Sri Lanka under such conditions as may be prescribed, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and the petty or non-commissioned officers of such force shall, in relation to him, be treated as, and have all the powers (other than the powers of punishment) vested in, officers or non-commissioned officers of the army as the case may be.

Co-operation with foreign military force.

22. (1) In time of war, if the whole or any part of the army is required to act in co-operation with any foreign military force in defence of Sri Lanka the President may place the army or such part thereof under the command of the officer commanding such foreign force if that officer is senior in rank to all the officers of the army or of such part thereof.

(2) Where any officer, warrant officer, or non-commissioned officer is acting in

co-operation with any foreign military force in defence of Sri Lanka, the President may, in agreement with the commander of such force, define the powers of command and the order of precedence of such officer, warrant officer, or non-commissioned officer in relation to a member of such force who is of the same or similar rank.

23. (1) If at any time it appears to the President that any persons have taken or are threatening immediately to take any action of such a nature and on such a scale as to be calculated to deprive the people of Sri Lanka, or a substantial portion of them, of the essentials of life by interfering with the supply and distribution of food, water, fuel, or light, or with the means of transport and communication, the President may order all or any of the members of the Regular Force, and such members of any other unit of the army as are called out on active service under section 19 for the purpose mentioned in paragraph (c) of subsection (1) of that section, to perform such duties of a non-military nature as he may consider necessary for the maintenance of supplies and services essential to the life of the community.

Performance of non-military duties.

(2) Every officer or soldier of the army shall perform such duties as may be imposed on him by order of the President under subsection (1) of this section.

23A. (1) The President may order all or any of the members of the army to perform such non-military duties as he may consider necessary in the national interest.

Performance of certain other duties by members of the Army, [§2.6 of 1962.]

(2) The President may order any member of the army to perform escort and guard duties in respect of persons suspected, accused, or convicted of any offence against the State under Chapter VI of the Penal Code.

(3) Every member of the army shall perform such duties as may be imposed on him by Order of the President under subsection (1).

(4) Wherever an Order is made under subsection (1) calling upon any officer of the army to perform civilian administrative duties and wherever an Order is made under

subsection (2) the President shall communicate to Parliament such Order in the same manner as under the Public Security Ordinance in the case of a declaration of a state of emergency,

PART V

PAY, ALLOWANCES, PENSIONS AND GRATUITIES

Emoluments of members of the Regular Force and of other members of the army who are on active service.

24. Every member of the Regular Force and every officer or soldier not belonging to the Regular Force who is on active service shall be entitled to such pay and allowances, and to be quartered in such manner, as may be prescribed.

Allowances of officers and soldiers who are not members of the Regular Force and are not on active service.

25. Such of the officers and soldiers as are not members of the Regular Force and are not on active service shall be entitled to such equipment allowance or other allowance as may be prescribed.

Making and remission of deductions.

26. (1) No penal deduction, other than a penal deduction authorized by this Act, shall be made from the pay or allowance of any officer or soldier.

(2) Any sum authorized by this Act to be deducted from the pay of any officer or soldier may be deducted from his pay or from any sums due to him.

(3) Any deduction authorized by this Act to be made from the pay of any officer or soldier may be remitted in such circumstances and in such manner as may be prescribed.

Penal deductions from the pay due to an officer. [§ 2, 32 of 1962.]

27. The following penal deductions may be made from the pay or allowance due to an officer:—

(a) all pay in respect of any period during which he is absent without leave, unless an explanation has been given by him through his commanding officer and has been accepted as satisfactory by the Commander of the Army;

[§ 2, 32 of 1962.]

(aa) in respect of each month of any period during which he is suspended from the exercise of his

office, a part of his pay and allowances for that month as may be prescribed;

(b) the sum awarded by the court martial by which he is convicted of any offence as the compensation payable by him for any expense, loss, damage or destruction occasioned by the commission of the offence ;

(c) the sum required to make good the pay of any other officer or of any soldier which he has unlawfully retained or unlawfully refused to pay;

(d) the sum required to make good such loss, damage, or destruction of public or army property as, after due investigation, appears to the Commander of the Army to have been occasioned by any wrongful act or negligence of the officer;

(e) any sum which he has been ordered by a civil court to pay for the maintenance of his wife or of his legitimate or illegitimate child or children and which he has himself not paid.

28. (1) The following penal deductions may be made from the pay or allowance due to a soldier:—

Penal deductions from the pay due to a soldier. [§ 3, 32 of 1962.]

(a) all pay for every day of absence either on desertion or without leave, or as a prisoner of war if taken prisoner through his neglect or misconduct; for every day of imprisonment to which he is sentenced by a court martial or civil court, or, if he is on board a ship of the Republic, by the commanding officer of that ship ; for every day of detention to which he is sentenced, or for every day in respect of which field punishment is imposed on him, by a court martial or by his commanding officer; and for every day whilst he is in military custody on a charge for an offence of which he is afterwards convicted by a court martial or a civil court, or on

a charge of absence without leave for which he is afterwards sentenced to detention or subjected to field punishment by his commanding officer;

[§ 3, 32 of 1962.]

- (ad) in respect of each month of any period during which he is suspended from his duties, a part of his pay and allowances for that month as may be prescribed ;
- (b) all pay for every day on which he is in hospital on account of illness certified by the medical officer attending on him at the hospital to have been caused by an offence committed by him;
- (c) such sum payable by him by way of compensation for any expense, loss, damage, or destruction occasioned by the commission of any offence as may be determined by the court martial by which he is convicted of that offence or by the authority dealing summarily, under section 43, with the charge against him in respect of that offence, or, if he is on board a ship of the Republic, by the commanding officer of that ship, or, where he has confessed the offence and his trial is dispensed with by order under section 149, by that order or by any other order of a competent military authority under that section;
- (d) such sum payable by him by way of compensation for any expense caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessaries, or military decorations, or to any buildings or other property, as may be determined by his commanding officer, or by the authority dealing summarily, under section 43 with a charge against him, or, where he elects to be tried by a court martial, by that court martial, or, if he is on board a ship of the Republic by the commanding officer of that ship ;

- (e) the share which he, as a member of a unit of the army, is required to contribute towards compensation for any barrack damage which, after due investigation held in the prescribed manner, appears to have been caused by the wilful act or negligence of any unidentifiable person or persons belonging to such unit, during the period while such unit was in occupation of the barracks;
- (f) the sum required to pay any fine imposed by a court martial or his commanding officer; or any fine, penalty, damages, compensation, or costs which a civil court before which he has been charged with an offence has ordered him to pay; and
- (g) any sum which he has been ordered by a civil court to pay for the maintenance of his wife or of his legitimate or illegitimate child or children and which he has himself not paid;

Provided that—

- (i) the total amount of such deductions authorized by this subsection as are made from the pay due to a soldier shall not exceed such sum as will leave to him, after paying for his messing and washing, less than ten cents a day, and
 - (ii) where a soldier who is sentenced in respect of an offence on active service to forfeit all pay is liable to any other penal deductions from pay, the sentence shall apply only to so much of his pay as remains after those deductions have been made.
- (2) For the purposes of paragraph (e) of subsection (1) of this section—

" barrack damage " means damage to or loss or destruction of any premises in which soldiers are quartered or billeted, or any appurtenances, fixtures, furniture or effects therein or appertaining thereto, and

" unit" includes any part of a unit.

Pensions and gratuities.

29. Any officer or soldier, or the widow or any child or other dependant of any officer or soldier, may be paid a pension or gratuity in such circumstances and at such rates as may be prescribed.

matter, he may make a written appeal to the President. An order made by the President on any such appeal shall be final.

Assignment, seizure, or sequestration of pay, allowance, pension or gratuity.

30. (1) Every assignment of and every charge on, and every agreement to assign or charge, any pay or allowance payable to any officer or soldier, or any pension or gratuity payable to any officer or soldier or to the widow or any child or other dependant of any officer or soldier, shall be void unless it is approved by the President or any person thereto authorized by the President.

33. (1) Where a soldier is aggrieved by any action of an officer other than the commanding officer of the corps to which he is attached or by any action of any other soldier, he may make a written appeal for redress to such commanding officer, and where he is aggrieved by any action of such commanding officer, either in respect of his appeal or in respect of any other matter, he may make a written appeal to the Commander of the Army.

Grievances of soldiers.

(2) No pay or allowance payable to any officer or soldier, and no pension or gratuity payable to any officer or soldier or to the widow or any child or other dependant of any officer or soldier, nor any part thereof, shall be seized or sequestered under any writ or order issued or made by any civil court.

(2) Each officer to whom an appeal is made under subsection (1) of this section shall inquire into the appeal, and, if satisfied that the appeal should be allowed, shall grant redress to the appellant. An order made by the Commander of the Army on any appeal made to him under that subsection shall be final.

Maintenance of wife and children.

31. Where a civil court enters a decree or makes an order against a person, who is or subsequently becomes an officer or a soldier, for the payment of any sum as cost of maintenance of his wife or of his legitimate or illegitimate child or children, the Commander of the Army may, if a duly certified copy of such decree or order is sent to him, cause to be deducted from the pay of the officer or soldier and to be appropriated towards the payment of that sum such portion of the pay of the officer or soldier as the Commander of the Army may determine, so however that there shall be left to the officer or soldier not less than one-third of his pay.

PART VII

PERSONS SUBJECT TO MILITARY LAW

34. For the purposes of this Act, " person subject to military law " means a person who belongs to any of the following classes of persons :—

Meaning of " person subject to military law"

- (a) all officers and soldiers of the Regular Force;
- (b) all such officers and soldiers of the Regular Reserve, Volunteer Force, or Volunteer Reserve, as are deemed to be officers and soldiers of the Regular Force under subsection (3) of section 3.

PART VI

REDRESS OF GRIEVANCES

Grievances of officers.

32. Where an officer is aggrieved by any action of, and is unsuccessful in obtaining redress from, his commanding officer, he may make a written appeal for redress to the Commander of the Army, and where he is aggrieved by any action of the Commander of the Army, either in respect of his appeal or in respect of any other

35. A person subject to military law who commits any military or civil offence may be taken into military custody.

Persons liable to military custody.

36. (1) A senior officer may order into military custody a junior officer who, being a person subject to military law, commits any military or civil offence, and a junior officer may order into military custody a senior officer who, being a person subject to military law, is engaged in a quarrel, affray or disorder.

Persons who may order military custody.

(2) Any officer or non-commissioned officer may order into military custody any soldier who, being a person subject to military law, commits any military or civil offence.

(3) An order under subsection (1) or subsection (2) of this section shall be obeyed notwithstanding that the person giving the order and the person in respect of whom the order is given do not belong to the same corps.

Custodians.

37. Any officer or soldier ordered into military custody shall be committed to the custody of a provost marshal or an assistant provost marshal or of the commander of a guard. The person to whose custody any officer or soldier is committed under this section shall not refuse to receive or keep him.

Statement of offence.

38. The person ordering any officer or soldier into military custody shall, within twenty-four hours of the committal of that officer or soldier to such custody, deliver to the person to whose custody that officer or soldier is committed a written and signed statement of the offence with which that officer or soldier is charged.

Military custody of officer or soldier not on active service.

39. Where any officer or soldier not on active service is kept in military custody for a longer period than seven days without trial, his commanding officer shall submit weekly to the officer to whom application would be made to convene a court martial if the person in military custody were to be tried by a court martial, a written report on the necessity for such custody, until he is brought to trial or is released from such custody.

Commanding officer's powers in regard to an accused.

40. (1) Where a person subject to military law is taken into military custody, the commanding officer of that person shall without unnecessary delay investigate the charge on which that person is in such custody, and—

- (a) if he in his discretion decides that it should not be proceeded with, shall dismiss the charge, and

(b) if he in his discretion decides that the charge should be proceeded with, shall—

- (i) take steps for the trial of that person by a court martial, or
- (ii) where that person is an officer of a rank below that of lieutenant-colonel or is a warrant officer, refer the case to be dealt with summarily by the Commander of the Army or by such officer not below the rank of colonel as may thereto be authorized by the Commander of the Army, or
- (iii) where that person is a soldier other than a warrant officer, deal with the case summarily.

(2) Subject to the provisions of subsection (3) of this section, where a soldier, other than a warrant officer or non-commissioned officer, is charged with the offence of drunkenness, his commanding officer shall deal with the case summarily unless the offence was committed by him while on active service or on duty, or after he was warned for duty, or unless by reason of the drunkenness he was found unfit for duty, or unless he has been guilty of the offence of drunkenness on four or more occasions in the preceding twelve months.

(3) Where a commanding officer has power to deal with an accused soldier summarily under this section, and, after hearing the evidence, considers that he may so deal with the accused, he shall, if the sentence on the conviction of the accused will involve forfeiture of pay or will not consist only of a minor punishment which a commanding officer is authorized to inflict by regulations made in that behalf, ask the accused whether he desires to be dealt with summarily or to be tried by a district court martial, and he shall, if the accused elects to be tried by a district court martial, take steps for the trial of the accused by a district court martial, or, if the accused does not so elect, proceed to deal with the accused summarily.

Delegation of commanding officer's power to deal summarily with an accused soldier.

41. A commanding officer may, in accordance with such regulations as may be made in that behalf, delegate to an officer under his command the power of dealing summarily with an accused soldier under section 40.

(b) where the accused is a warrant officer, inflict on him all or any of the following punishments :—

- (i) forfeiture of seniority of rank;
- (ii) a severe reprimand or a reprimand;
- (iii) such deduction from his pay as is authorized by this Act.

PART VIII

SUMMARY TRIAL

Summary trial of accused who is an officer of a rank below that of lieutenant-colonel or is a warrant officer.

42. Where a person subject to military law who is an officer of a rank below that of lieutenant-colonel or is a warrant officer is charged with any offence and the case is referred under section 40 to be dealt with summarily by the authority mentioned in paragraph (b) (ii) of subsection (1) of that section, such authority may—

43. Where a commanding officer deals summarily with a case in which a soldier (not being a warrant officer) under his command is charged with the commission of any offence, he shall, after hearing the evidence, acquit the accused if he finds the accused not guilty, or convict the accused if he finds the accused guilty, and after conviction of the accused may—

Summary trial of accused who is a soldier other than a warrant officer.

- (a) whether before or after hearing the evidence dismiss the charge, if he decides in his discretion that it should not be proceeded with ; or
- (b) after hearing the evidence—
 - (i) acquit the accused, if he finds the accused not guilty ; or
 - (ii) convict the accused, if he finds the accused guilty.

- (a) order him to be placed under detention for any period not exceeding twenty-eight days; or
- (b) if the offence is drunkenness, order him to pay a fine not exceeding twenty rupees, either in addition to or without any other punishment; or
- (c) in addition to or without any other punishment order him to suffer any such deduction from his pay as is authorized by this Act to be made by the commanding officer; or

In the event of the accused being convicted, such authority may—

- (a) where the accused is an officer of a rank below that of lieutenant-colonel, inflict on him all or any of the following punishments :—
 - (i) forfeiture of seniority of rank either in the army or in the corps to which the accused belongs or in both, or, if the accused's promotion in the army depends on length of service, forfeiture of all or any part of his service for the purposes of such promotion;
 - (ii) a severe reprimand or a reprimand; and

- (d) where he is not a non-commissioned officer and the offence has been committed by him while on active service, subject him to field punishment for a period not exceeding twenty-eight days in accordance with such regulations relating to field punishment as may be made, and, in addition to or without any other punishment, order him to forfeit all pay for a period commencing on the day of the order and not exceeding twenty-eight days; or
- (e) in addition to or without any other punishment, subject him to such minor punishment as the

commanding officer is authorized to inflict by regulations made in that behalf, so however that a minor punishment shall not be inflicted for any offence for which detention exceeding seven days is ordered.

Manner of taking evidence at summary trial.

44. Where a commanding officer has power to deal with a case summarily, the accused may demand that the evidence against him shall be taken on oath or affirmation, and if the accused so demands, the same oath or affirmation as that required to be taken by witnesses before a court martial shall be administered by the commanding officer to each witness in such case.

PART IX

COURTS MARTIAL

Three kinds of courts martial.

45. A court martial may be—

- (a) a general court martial, or
- (b) a field general court martial, or
- (c) a district court martial.

General court martial.

46. (1) A general court martial may be convened by the President or such officer of a rank not below that of field officer as may be authorized by the President.

(2) A general court martial shall—

- (a) where it is convened to try a person subject to military law for the offence of treason, murder or rape, consist of not less than five officers, and
- (b) where it is convened to try a person subject to military law for any other offence, consist of three officers. -

(3) An officer of a rank below that of captain shall not be a member of a general court martial for the trial of a field officer.

(4) The president of a general court martial shall be appointed by the authority convening such court martial, and

shall not be that authority or an officer of a rank below that of field officer :

Provided, however, that where such authority in his order convening such court martial certifies that a field officer is not available owing to the exigencies of the service, he may appoint an officer of a rank not below that of captain as the president of such court martial.

47. (1) A general court martial may try any person subject to military law who is charged with any military or civil offence:

Jurisdiction of general court martial.

Provided, however, that a general court martial shall not try a person subject to military law for the offence of treason, murder, or rape committed in Sri Lanka, or in any place in the Commonwealth outside Sri Lanka, unless such person was on active service at the time he committed such offence.

(2) A general court martial may inflict any punishment authorized by this Act, and may—

- (a) in the case of a warrant officer inflict, either in addition to or without any other punishment, any punishment which under the proviso to subsection (2) of section 51 a district court martial may inflict, and
- (b) in the case of a non-commissioned officer, order, either in addition to or without any other punishment, forfeiture of seniority of rank or reduction to rank of private :

Provided, however, that a general court martial shall not pass sentence of death on any person without the concurrence of at least two-thirds of the members thereof.

48. (1) Where only a part of the army is on active service or is in any country outside Sri Lanka, and it is impracticable, in the opinion of the commanding officer thereof, to convene a general court martial, such commanding officer may convene a field general court martial.

Field general court martial.

(2) A field general court martial shall consist of not less than three officers:

Provided, however, that, where the officer convening a field general court martial certifies that three officers are not available owing to the exigencies of the service, such court martial may consist of two officers.

(3) The officer convening a field general court martial may be the president of such court martial, but he shall, whenever he deems it practicable, appoint another officer as president, who may be of any rank, but shall, if practicable in the opinion of the first-mentioned officer, be of a rank not below that of captain.

Jurisdiction of field general court martial.

49. (1) A field general court martial may try—

- (a) any person subject to military law who, while on active service and under the command of the officer empowered by section 48 to convene such court martial, is charged with any military or civil offence, and
- (b) any person subject to military law who, while in any foreign country and under the command of such officer, is charged with any offence against the property or person of any inhabitant or resident of that country.

(2) A field general court martial may inflict any punishment which a general court martial is empowered to inflict;

Provided, however, that—

- (a) where a field general court martial consists of less than three officers, such court martial shall not have the power to inflict any punishment more severe than imprisonment or field punishment allowed by this Act, and
- (b) a field general court martial shall not pass sentence of death on any person without the concurrence of all the members thereof.

50. (1) A district court martial may be convened by any person empowered to convene a general court martial or by such officer of a rank not below that of captain as may be authorized by such person, and shall consist of not less than three officers.

District court martial.

(2) The president of a district court martial shall be appointed by the officer convening such court martial and shall not be that officer or an officer of a rank below that of field officer;

Provided, however, that—

- (a) where the officer convening a district court martial is of a rank below that of field officer or where in his order convening such court martial he certifies that a field officer is not available having due regard to the exigencies of the service, an officer of a rank not below that of captain may be the president of such court martial, and
- (b) where, in his order convening such court martial, the first-mentioned officer certifies that a captain is not available owing to the exigencies of the service and where the accused who is to be tried by such court martial is not a warrant officer, an officer of a rank below that of captain may be the president of such court martial.

51. (1) Subject to the same restrictions as are imposed on a general court martial by the proviso to subsection (1) of section 47, a district court martial may try any person subject to military law who is charged with any military or civil offence other than the offence of murder and who is not an officer.

Jurisdiction of district court martial.

(2) A district court martial may inflict any punishment, other than the punishment of death, which a general court martial is empowered by this Act to inflict:

Provided, however, that a district court martial shall not sentence a warrant officer to any punishment other than the following:—

- (a) a severe reprimand or a reprimand ;
- (b) forfeiture of seniority of rank;
- (c) such deduction from his pay as is authorized by this Act; and

(d) either in addition to or without any of the aforementioned punishments, dismissal from the army, or, if he was originally enlisted as a private but not otherwise reduction to the rank of private.

Courts martial in general.

52. (1) The members of a court martial may be officers of the same corps or of different corps or may be unattached to any corps.

(2) On a court martial, other than a field general court martial, convened for the trial of an accused, the following shall not sit or be qualified to sit:—

- (a) the prosecutor;
- (b) any witness for the prosecution ;
- (c) the commanding officer of the accused;
- (d) the officer who investigated the charge on which the accused is arraigned.

Appointment of Judge-Advocate.

53. (1) The authority convening a general court martial shall, and the authority convening a district court martial may, appoint a person, who has sufficient knowledge of the practice and procedure of courts martial and of the general principles of law and of the rules of evidence, to act as Judge-Advocate at the court martial.

(2) A person who, under subsection (2) of section 52, is disqualified from sitting on a court martial shall not be appointed as Judge-Advocate at that court martial.

Powers and duties of Judge-Advocate.

54. The powers and duties of the officer appointed to be the Judge-Advocate at a court martial shall be as follows :—

(a) It shall be his duty, whether before or during the proceedings, to give advice on questions of law or procedure relating to the charge or trial to the prosecutor and to the accused, who are hereby declared to be entitled to obtain such advice at any time after his appointment:

Provided that during the proceedings he shall give such

advice with the prior permission of the court martial.

(b) It shall be his duty to invite the attention of the court martial to any irregularity in the proceedings. Whether or not he is consulted, he shall inform the court martial and the authority convening the court martial of any defect in the charge or in the constitution of the court martial, and shall give his advice on any matter before the court martial.

(c) He shall take all such action as may be necessary to ensure that the accused does not suffer any disadvantage in consequence of any incapacity to examine or cross-examine witnesses or to give evidence clearly, and may for that purpose, with the permission of the court martial, question any witness on any relevant matter.

(d) At the conclusion of the case he shall, unless both he and the court martial consider it unnecessary, sum up the evidence and advise the court martial upon the law relating to the case before the court martial proceeds to deliberate upon its finding.

55. (1) Every member of a court martial and the Judge-Advocate, if any, shall take the prescribed oath or make the prescribed affirmation before the commencement of the trial of a case.

Oath or affirmation.

(2) Every witness before a court martial shall take the prescribed oath or make the prescribed affirmation before commencing his evidence.

56. Where three years have elapsed after the commission of any offence by any person subject to military law, he shall not be tried by a court martial for that offence unless it is the offence of mutiny, desertion, or fraudulent enlistment.

Time-limit.

57. (1) Where a person subject to military law commits any offence and thereafter ceases to be a person subject to military law, he may be taken into and kept

Trial of offenders who have ceased to be subject to military law.

in military custody and be tried and punished for that offence by a court martial:

Provided that he shall not be so tried after the lapse of six months from the date of the commission of such offence unless such offence is the offence of mutiny, desertion, or fraudulent enlistment.

(2) Where a person subject to military law is sentenced by a court martial to imprisonment or detention for any offence and thereafter ceases to be a person subject to military law, he may, during his imprisonment or detention, be dealt with as if he continued to be a person subject to military law.

58. A court martial shall not try a person for any offence if—

- (a) he has been already acquitted or convicted of that offence by a court martial or by a competent civil court, or
- (b) the charge against him in respect of that offence has been dismissed by his commanding officer, or
- (c) he has been dealt with summarily for that offence by his commanding officer or by the Commander of the Army or by an officer, of a rank not below that of colonel, authorized in that behalf by the Commander of the Army.

For the purposes of this section a person shall not be deemed to have been convicted by a court martial unless the conviction has been confirmed by the authority empowered by this Act to confirm it.

59. A person subject to military law who commits an offence in or outside Sri Lanka may be tried and punished for that offence by a court martial held at any place in which he may be for the time being, if that place is within the jurisdiction of an officer authorized by the President to convene general courts martial.

60. (1) The names of the members of a court martial shall, before they are sworn or affirmed, be read in the hearing of the

accused appearing before the court martial; and the accused shall be asked whether he objects to any such member, and, where as hereinafter provided any such member retires on being objected to and a successor to the retiring member is appointed, the accused shall be asked whether he objects to the succeeding member.

(2) An accused appearing before a court martial may object, for any reasonable cause, to any member of the court martial, including the president, whether appointed to serve on the court martial originally or to fill a vacancy caused by the retirement of a member objected to, so that the court martial may be constituted of officers to whom the accused has no reasonable objection.

(3) An objection of an accused to any member of a court martial shall be submitted to the other members of the court martial.

(4) An objection of an accused to the president of a court martial shall, if upheld by one-third or more of the other members of the court martial, be allowed, and the court martial shall adjourn for the purpose of the appointment of another president.

(5) If an objection of an accused to the president of a court martial is allowed, the authority convening the court martial shall appoint another officer as president, and such officer shall act as president subject to the right of the accused to object to him.

(6) An objection of an accused to a member of a court martial other than the president shall, if upheld by one-half or more of the other members of the court martial, be allowed, and the member objected to shall retire, and the authority convening the court martial shall appoint a successor to the retiring member, subject to the right of the accused to object.

61. (1) If the number of members of a court martial after the commencement of the trial of a case is, by death or otherwise, reduced below the minimum number of members specified in this Act, the court martial shall be dissolved. Procedure.

Effect of acquittal or conviction of an offence.

Place of trial.

Objections by accused to members of court martial.

(2) If after the commencement of the trial of a case the president of a court martial dies or is otherwise unable to attend the court martial and the number of members of the court martial is not reduced below the minimum number of members specified in this Act, the authority who convened the court martial may appoint the senior member of the court martial, if of sufficient rank, to be president, and the trial shall proceed accordingly, but if he is not of sufficient rank, the court martial shall be dissolved.

(3) If the Judge-Advocate appointed to a court martial dies or is unable to attend the court martial owing to illness or any other cause, the court martial shall adjourn and the president shall report the circumstance to the authority who convened the court martial; and in the case of death of the Judge-Advocate, or where the authority who convened the court martial is of the opinion that it is inexpedient to delay the trial until the Judge-Advocate who is unable to attend the court martial is able to do so the court martial shall be dissolved.

(4) If the trial of an accused before a court martial cannot, within a reasonable time having regard to all the circumstances, be continued owing to the illness of the accused, the court martial shall be dissolved.

(5) Where a court martial convened for the trial of an accused is dissolved under any of the preceding provisions of this section, the accused may be tried again before another court martial, without prejudice to the provisions of section 56,

(6) The president of a court martial may, on any deliberation amongst the members of the court martial, cause the place where the court martial sits to be cleared of all other persons.

(7) A court martial may adjourn from time to time.

(8) A court martial may, where necessary, view any place.

(9) Every question before a court martial shall be decided by the majority vote of the members of the court martial. Where

there is an equality of votes of the members of a court martial on the question of the finding in any case, the accused in that case shall be deemed to be acquitted. Where there is an equality of votes of the members of a court martial on the sentence in any case or on any question arising after the commencement of the hearing of any case other than the question of the finding, the president shall have a casting vote.

(10) When a court martial recommends a person under sentence to mercy, the recommendation shall be attached to and form part of the proceedings of the court martial, and shall be promulgated and communicated to such person, together with the finding and sentence.

62. When a person is charged with an offence before a court martial and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he was not charged with it.

When offence proved is included in offence charged.

63. (1) Subject to the provisions of the other subsections of this section, the conviction of, and the sentence passed on, an accused by a court martial shall not be valid until confirmed by the authority having power under section 64 to confirm such conviction and sentence.

Conviction and sentence not valid till confirmation.

(2) A sentence of death passed on any person by a court martial in respect of an offence committed by him while not on active service shall not be carried into effect unless it has been confirmed both by the authority referred to in subsection (1) of this section and by the President.

(3) A sentence of death passed on any person by a field general court martial in respect of an offence committed by him while on active service shall not be carried into effect unless it has been confirmed both by the authority referred to in subsection (1) of this section and by the general or field officer commanding the force with which that person was serving on the date of sentence.

64. The authority who shall have power to confirm the conviction of an accused, and the sentence passed on him, by a court martial shall—

Authorities empowered to confirm convictions and sentences.

(a) if that court martial is a general court martial, be the President or

such officer of a rank not below that of field officer as may be authorized by the President, or

(b) if that court martial is a field general court martial, be an officer authorized by the President as provided in paragraph (a) of this section, or

(c) if that court martial is a district court martial, be an officer authorized by the President to convene general courts martial or an officer empowered by any such authorized officer to confirm the conviction of, and the sentence passed on, an accused by a district court martial:

Provided, however, that where the authority having power to confirm the conviction of, and the sentence passed on, an accused by a general court martial or a district court martial has served as a member of that court martial he shall refer such conviction and sentence for confirmation to a superior authority competent to confirm the conviction of, and the sentence passed on, an accused by a like description of court martial, and, if such conviction and sentence are referred to such superior authority such superior authority shall, for the purposes of this Act, be deemed to be the authority having the power to confirm such conviction and sentence.

65. (1) The authority having the power to confirm the conviction of, and the sentence passed on, an accused by any court martial may—

(a) refer such conviction and sentence, or either of them, to that court martial for revision once, but not more than once;

(b) if such conviction and sentence are, or either of them is, revised once by that court martial, or if such conviction and sentence are, or either of them is, not referred to that court martial for revision, confirm such conviction and sentence either in the revised form or in the original form;

(c) withhold confirmation wholly or partly, and refer such conviction and sentence or the part thereof not confirmed, to a superior authority competent to confirm the conviction of, and the sentence passed on, an accused by a like description of court martial; and

(d) in regard to the sentence—

(i) mitigate the punishment to a less amount of the same punishment,

(ii) remit the whole or a part of the punishment,

(iii) commute the punishment to a different form of punishment lower in the scale of punishments authorized by this Act,

(iv) suspend for such time as he may determine the execution of the sentence, and

(v) where the sentence is one of imprisonment or detention passed on a soldier, confirm the sentence and direct that the soldier be not committed to prison or detention barracks until the order of a superior military authority referred to in section 68 has been obtained.

(2) If the authority having the power to confirm the conviction of, and the sentence passed on, an accused by any court martial refers such conviction and sentence for revision to the superior authority referred to in paragraph (c) of subsection (1) of this section, such superior authority shall, for the purposes of this Act, be deemed to be the authority having the power to confirm such conviction and sentence.

66. (1) If the conviction of an accused by a court martial is referred for revision to the court martial by the authority having the power to confirm it, the court martial may affirm the conviction, or revoke it and record a new finding. If the conviction is

Revision of conviction and sentence on reference to court martial.

Powers of confirming authority.

revoked, the court martial shall revoke the sentence also, and if the new finding is not one of acquittal, shall pass a new sentence which shall not be more severe than the original sentence.

(2) If only the sentence passed on an accused by a court martial is referred to the court martial for revision, the court martial may affirm or vary the sentence, but shall not enhance it or substitute for it any other punishment which is more severe in the scale of punishments authorized by this Act.

Revision of sentence which has been confirmed.

67. The President, or the Minister, or any prescribed officer may, in accordance with such regulations as may be made in that behalf, revise any sentence passed on an accused by a court martial and confirmed by an authority having the power to confirm it, and in revising the sentence may—

- (a) mitigate the punishment to a less amount of the same punishment;
- (b) remit the whole or a part of the punishment; and
- (c) commute the punishment to a different form of punishment lower in the scale of punishments authorized by this Act.

Suspension and remission of sentence of imprisonment or detention passed on a soldier.

68. (1) Where a sentence of imprisonment or detention is passed on a soldier by a court martial, a superior military authority may—

- (a) direct that a committal to prison or detention barracks shall not be issued until his order has been obtained, and
- (b) suspend the sentence whether or not the soldier has already been committed to prison or detention barracks.

(2) Where a sentence of imprisonment or detention passed on a soldier is suspended under this section by a superior military authority before the soldier has been committed to prison or detention barracks, the soldier if in custody shall be released, and, notwithstanding anything in this Act, that sentence shall not begin to run

until the soldier is ordered by such authority to be-committed to prison or detention barracks under that sentence.

(3) Where a sentence of imprisonment or detention passed on a soldier is suspended under this section by a superior military authority after the soldier has been committed to prison or detention barracks, the soldier shall be released and the currency of that sentence shall be suspended from the day on which he is released until he is again ordered by such authority to be committed to prison or detention barracks under that sentence.

(4) A superior military authority may, at any time whilst a sentence passed on a soldier is suspended under this section, make order that the soldier be committed to prison or detention barracks, and from the date of such order the sentence shall cease to be suspended.

(5) Where a sentence passed on a soldier has been suspended under this section, the case may at any time, and shall, at intervals of not more than three months, be reconsidered by a competent military authority, and if on any reconsideration it appears to the competent military authority that the conduct of the soldier since his conviction has been such as to justify a remission of the sentence, he shall remit it.

(6) Where a soldier whilst a sentence passed on him is suspended under this section is sentenced by a court martial to imprisonment or detention for a fresh offence, a superior military authority may direct that the two sentences shall run either concurrently or consecutively.

(7) The powers conferred by this section shall be in addition to and not in derogation of any other powers relating to the suspension or remission of sentences.

(8) In this section—

" superior military authority " means the President, the Commander of the Army, or any officer, not below the rank of colonel, who is authorized by the President to exercise the powers under this section, or the

officer in chief command of any such part of the army as may be on active service outside Sri Lanka, and

appearing on behalf of the prosecution or defence at a court martial:—

" competent military authority " means a superior military authority or any officer, not below the rank of field officer, who is authorized by a superior military authority to exercise the powers conferred by subsection (5) of this section.

Commence-
ment of
sentence.

69. A term of imprisonment or detention to which a person is sentenced by a court martial shall, whether the sentence has been revised or not, be reckoned to commence on the day on which the original sentence was signed by the president of that court martial.

Execution of
sentence of
imprisonment.

70. A sentence of imprisonment passed by a court martial on any person shall be executed by causing that person to undergo the term of his imprisonment in a military prison or detention barracks or in any other place of military custody or in a civil prison, or partly in one way and partly in another.

Execution of
sentence of
detention.

71. A sentence of detention passed by a court martial or a commanding officer on any person shall be executed by causing that person to undergo the term of his detention in detention barracks or in military custody or partly in one way and partly in the other, but not in a prison.

Summoning
and privilege of
witnesses at
courts martial.

72. (1) Every person required to give evidence before a court martial shall be summoned in the prescribed manner.

(2) Every person summoned to attend a court martial as a witness shall, during his attendance at the court martial and while going to and returning from the court martial, have the same privilege from arrest as he would have if he were a witness before a civil court.

Counsel at
court martial.

73. (1) At all proceedings before a court martial the prosecution as well as the defence shall be entitled to be represented by counsel.

(2) The following provisions shall have effect with respect to the conduct of counsel

(a) Any conduct of a counsel which would be liable to censure, or would be a contempt of court, if it occurred before a civil court, shall likewise be deemed liable to censure, or be deemed a contempt of the court martial, if it occurs before a court martial.

(b) Where the conduct of a counsel appearing before a court martial is liable to censure or is deemed a contempt of the court martial, the president of the court martial may under his hand certify such conduct of that counsel to the Court of Appeal, and that court may thereupon deal with that counsel in like manner as if such conduct and occurred before that court.

(c) Where the conduct of a counsel appearing before a court martial is liable to censure or is deemed a contempt of the court martial, the president of the court martial may make an order refusing to hear him and may adjourn the proceedings in order to enable other counsel to be retained.

74. (1) Where it appears to a court martial that any person charged before it with an offence is of unsound mind and consequently incapable of making his defence, the court martial shall record an express finding of the fact of his unsoundness of mind and incapacity; and such person shall be kept in custody in the prescribed manner until the directions of the Minister thereon are obtained, or until any earlier time at which such person is fit to take his trial.

Accused
who is of
unsound
mind.

(2) Where, on the trial by a court martial of a person charged with an offence, it appears that such person did the act or made the omission with which he is charged, but that he was of unsound mind at the time of such act or omission, the court martial shall record an express finding that such person was guilty of such act or omission but was of unsound mind at the time when

he did the act or made the omission; and such person shall be kept in custody in the prescribed manner until the directions of the Minister thereon are obtained.

(3) A finding by a court martial under this section shall be subject to confirmation in like manner as the conviction of, and the sentence passed on, a person charged with an offence before that court martial.

(4) After the finding of a court martial under this section as to the unsoundness of mind of any person is confirmed as hereinbefore provided, the Minister may give orders for the safe custody, during his pleasure, of that person in such place and in such manner as the Minister thinks fit.

(5) If a person imprisoned or undergoing detention by virtue of this Act becomes unsound in mind, then, without prejudice to any other provision for dealing with such person, the Minister may, upon a certificate by two qualified medical practitioners that such person is of unsound mind, order that such person shall be removed to a mental hospital or other place for the reception of persons of unsound mind and that he shall be there confined for the unexpired term of his imprisonment or detention or until he is again of sound mind ; and if before the expiry of that term such person is certified in the like manner to be again of sound mind, the Minister may order that such person shall be removed to any prison or detention barracks in which he might have been confined if he had not become unsound in mind and that he shall there serve the remainder of that term.

Right of person tried by court martial to copy of proceedings.

75. (1) Any person tried by a court martial for an offence shall be entitled to obtain from the person having the custody of the record of the proceedings of that court martial a copy thereof, upon payment for it at such rate not exceeding ten cents for every folio of seventy-two words as may be prescribed.

(2) The right conferred by subsection (1) of this section shall be subject to the condition that the demand for the copy of the proceedings of the court martial by the

person referred to in that subsection is made—

- (a) where the court martial is a general court martial, at any time within seven years, and
- (b) where the court martial is a field general court martial or a district court martial, at any time within three years,

after the confirmation of his conviction and the sentence passed on him by the court martial or after his acquittal.

(3) If the person referred to in subsection (1) of this section dies within the period of seven or three years specified in subsection (2) of this section, his next of kin shall, within twelve months after his death, have the right to obtain the copy of the proceedings mentioned in subsection (1) of this section.

76. For the purposes of section 75 the record of the proceedings of every court martial shall be preserved in the prescribed manner by the prescribed officer.

Preservation of records of proceedings of court martial.

PART X

CIVIL COURTS

77. (1) Save as provided in subsection (2) of this section, nothing in this Act shall affect the jurisdiction of a civil court to try or to punish for any civil offence any person subject to military law.

Jurisdiction of civil courts not affected by this Act.

(2) If a person subject to military law is convicted of an offence and sentenced to punishment by a court martial and is afterwards tried for, and convicted of, the same offence, by a civil court, then the civil court shall, in awarding punishment, have due regard to such punishment imposed by the court martial as that person may have already undergone.

78. It shall be the duty of every commanding officer—

Delivery of military offenders to the civil powers.

- (a) on an order made in that behalf by a civil court, to surrender to that

court any officer or soldier under his command who is charged with, or convicted of, any civil offence before that court, and

PART XI

EVIDENCE

- (b) to assist any police officer or any other officer concerned or connected with the administration of justice to arrest any officer or soldier so charged or convicted-

81. Subject to the other provisions of this Part, the rules of evidence to be adopted in proceedings before a court martial shall be the same as those followed in the civil courts in Sri Lanka. Rules of evidence.

82. Sections 83 to 93, both inclusive, shall apply to proceedings under this Act whether before a court martial or a civil court notwithstanding anything in any other law. Application of sections 83 to 93.

Issue of writs by Court of Appeal.

79. (1) Such of the provisions of Article 140 of the Constitution as relate to the grant and issue of writs of mandamus, certiorari, and prohibition shall be deemed to apply in respect of any court martial or of any military authority exercising judicial functions.

83. The attestation paper purporting to be signed by a person on his being enlisted as a soldier, or the declaration purporting to be made by a person upon his re-engagement in the army, shall be evidence of the fact that he has given such answer to questions as he is therein represented to have given. Proof of answers given by a person on enlistment or re-engagement as a soldier.

(2) The provisions of Article 141 of the Constitution relating to the issue of writs of habeas corpus shall be deemed to apply in respect of any person illegally detained in custody by order of a court martial or other military authority.

84. The enlistment of a person as a soldier in the army may be proved by the production of a copy of his attestation paper certified to be a true copy by the officer having the custody of the attestation paper, without proof of the handwriting of such officer or of his having such custody. Proof of enlistment.

Actions against persons for acts done under this Act.

80. Any action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not be instituted or entertained, unless—

85. A letter, return, or other document stating, in respect of any person, that such person— Letters, returns, or other documents respecting service.

- (a) it is commenced within six months next after the act, neglect, or default complained of,

(a) has, or has not, at any time served in, or been discharged from, the army, or

- (b) written notice setting out the cause of action or the alleged offence, the name and place of abode of the person intending to be the plaintiff or complainant, and any relief claimed, has been delivered to, or left at the residence or official address of, the person against whom the action, prosecution or proceeding is intended to be instituted, and

(b) has, or has not, held any rank or appointment in, or been posted or transferred to, any part of the army, or served in any particular country or place, or

- (c) one month has expired after such notice has been so delivered or left.

(c) has been, or has not been, authorized to use or wear any military decoration, medal, medal ribbon, badge, wound stripe or emblem, the use or wearing of which by an unauthorized person is an offence under this Act,

and purporting to be signed by or on behalf of the Minister, or by the commanding officer, or the officer having the custody of

the records, of that part of the army to which such person appears to have belonged or alleges that he belongs or at any time belonged, shall be evidence of the facts stated in such letter, return, or other document.

Copies of regulations and orders printed by Government Printer.

86. Copies, purporting to be printed by the Government Printer, of regulations or orders made under this Act shall be evidence of such regulations or orders.

Army list or gazette.

87. An army list or gazette purporting to be published by authority of the President and printed by the Government Printer shall be evidence of the ranks of the officers therein mentioned, and of any appointments held by such officers, and of the parts of the army to which such officers belong or at any time belonged.

Orders made under this Act by military authorities.

88. An order made under this Act by a military authority shall be deemed to be evidence of the matters directed by this Act to be stated therein, and a copy of such order purporting to be certified to be a true copy by the officer therein alleged to be authorized by the Minister to certify it shall be admissible in evidence.

Record made in a regimental book.

89. Where a record is made in any regimental book in pursuance of any written law or of military duty and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated. A copy of such record purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

Descriptive return.

90. A descriptive return, within the meaning of section 150, purporting to be signed by a Magistrate shall be evidence of the matters therein stated.

Certificate regarding surrender of alleged deserter or absentee without leave.

91. (1) Where any officer or soldier charged with being a deserter or absentee without leave has surrendered to a provost marshal, assistant provost marshal or other officer, a certificate purporting to have been signed by such provost marshal, assistant provost marshal or other officer and stating the fact, date, and place of surrender, shall be evidence of the matters so stated.

(2) Where any officer or soldier charged with being a deserter or absentee without leave has surrendered to a police officer in charge of a police station and has been delivered into military custody by such police officer, a certificate purporting to be signed by such police officer and stating the fact, date, and place of surrender shall be evidence of the matters so stated.

92. Where any officer or soldier has been arrested and taken to any office, station, or post, in any place outside Sri Lanka, which corresponds to a police station in Sri Lanka, or has on surrender been taken into custody at any such office, station, or post, a certificate which purports to be signed by the officer in charge of such office, station, or post and which states the fact, date, and place of arrest or surrender shall be evidence of the matters so stated.

Certificate regarding arrest or surrender of officer or soldier outside Sri Lanka.

93. A copy of the whole or any part of the proceedings of a court martial purporting to be certified by the Commander of the Army, or by any officer thereto authorized by the Commander of the Army, to be a true copy of such proceedings or of such part, shall be admissible in evidence without proof of the signature of such Commander or officer.

Copy of proceedings of court martial.

94. Where any person subject to military law has been tried for any offence by a civil court, the Registrar of such court shall, if requested by the commanding officer of such person or by any other officer authorized in that behalf by such commanding officer, transmit to the officer by whom the request is made a certificate setting out the offence for which such person was tried and the judgment of such court thereon. Such certificate shall, in any proceedings before a court martial, be evidence of the matters stated therein.

Evidence of conviction or acquittal by civil court.

PART XII

MILITARY OFFENCES

OFFENCES IN RESPECT OF MILITARY SERVICE

95. Every person subject to military law who—
(a) shamefully abandons or delivers up any fortification, place, post,

Offences in relation to the enemy punishable with death.

garrison, or guard, or uses any means to compel or induce any governor, commanding officer, or other person shamefully to abandon or deliver up any fortification, place, post, garrison, or guard, which it was the duty of such governor, officer, or person to defend, or

- (b) shamefully casts away his arms, ammunition, or tools in the presence of the enemy, or
- (c) treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or without good cause sends a flag of truce to the enemy, or
- (d) assists the enemy with arms, ammunition, or supplies, or knowingly harbours or protects an enemy not being a prisoner, or
- (e) having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy, or
- (f) knowingly does, when on active service, any act calculated to imperil the success of the army, or any force co-operating therewith, or any part of the army or of any such force,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer death or any less severe punishment in the scale set out in section 133.

96. Every person subject to military law who while on active service—

- (a) without orders from his superior officer leaves the ranks in order to secure prisoners or booty, or on pretence of taking wounded men to the rear, or
- (b) without orders from his superior officer wilfully destroys or damages any property, or
- (c) is taken prisoner, owing to his failure to take due precaution, or through

his disobedience of orders, or wilful neglect of duty, or having been taken prisoner, fails to rejoin the army when able to do so, or

- (d) without due authority either holds correspondence with or gives intelligence to, or sends a flag of truce to the enemy, or
- (e) by word of mouth, or in writing, or by signals, or otherwise spreads reports calculated to create unnecessary alarm or despondency, or
- (f) in action, or previously to going into action, uses words calculated to create alarm or despondency, or
- (g) behaves or induces others to behave before the enemy in such manner as to show cowardice,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

97. (1) Every person subject to military law who treacherously makes known the parole, watchword, or countersign to any person not entitled to receive it, or treacherously gives a parole, watchword, or countersign different from what he received, shall be guilty of a military offence and on conviction by a court martial shall—

- (a) where such offence is committed by him while on active service, be liable to suffer death or any less severe punishment in the scale set out in section 133, and
- (b) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Offences punishable more severely on active service than at other times.

Offences in relation to the enemy not punishable with death.

(2) Every person subject to military law who—

- (a) leaves the ranks or his post without the orders of his commanding officer in order to go in search of plunder, or
- (b) forces any escort or safeguard drawn from the army or from an allied force, or
- (c) forces or strikes a sentinel of the army or of an allied force, or
- (d) breaks into any house or other place in search of plunder, or
- (e) being a soldier acting as sentinel, sleeps or is drunk at his post, or
- (f) without orders from his superior officer, leaves his guard, piquet, patrol or post, or
- (g) by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, intentionally occasions false alarm in action, on the march, in the field, or elsewhere, or
- (h) being a soldier acting as sentinel, leaves his post before he is properly relieved,

shall be guilty of a military offence and, on conviction by a court martial, shall—

- (i) where such offence is committed by him while on active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and
- (ii) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less

severe punishment in the scale set out in section 133.

(3) Every person subject to military law who—

- (a) by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, negligently occasions false alarm in action, on the march, in the field, or elsewhere, or
- (b) makes known the parole, watchword, or countersign to any person not entitled to receive it, or, without good and sufficient cause, gives a parole, watchword, or countersign different from what he received, or
- (c) impedes the provost marshal or any assistant provost marshal or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of the provost marshal, or, when called on, refuses to assist in the execution of his duty the provost marshal, assistant provost marshal, or any such officer, non-commissioned officer, or other person, or
- (d) does violence to any person bringing provisions or supplies to the army or any part thereof or to any foreign force co-operating therewith, or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving, or
- (e) irregularly detains or appropriates to his own corps, battalion, or detachment any provisions or supplies proceeding to any other part of the army or to any such foreign force as aforesaid, contrary to any orders issued in that respect,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a

soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

to, his superior officer shall be guilty of a military offence and, on conviction by a court martial, shall—

MUTINY AND INSUBORDINATION

Mutiny and sedition.

98. Every person subject to military law who—

- (a) causes or conspires with any other person to cause mutiny or sedition in the Army, Navy or Air Force of Sri Lanka or in any force co-operating therewith, or
- (b) endeavours to seduce any person in any such force as aforesaid from allegiance to the Republic, or to persuade any person in any such force as aforesaid to join in any mutiny or sedition, or
- (c) joins in, or being present does not use his utmost endeavours to suppress, any mutiny or sedition in any such force as aforesaid, or
- (d) acquiring the knowledge of any actual or intended mutiny or sedition in any such force as aforesaid, does not without delay communicate such knowledge to his commanding officer,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer death or any less severe punishment in the scale set out in section 133,

Striking or threatening superior officer.

99. (1) Every person subject to military law who strikes, or uses or offers any violence to, his superior officer while such officer is performing his duties, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

(2) Every person subject to military law who strikes, or uses or offers any violence or uses threatening or insubordinate language

(a) where such offence is committed by him while on active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and

(b) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

100. (1) Every person subject to military law who disobeys, in such manner as to show a wilful defiance of authority, any lawful command given personally by his superior officer while such officer is performing his duties, whether such command is given orally, or in writing, or by signal, or otherwise, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

Disobedience to superior officer.

(2) Every person subject to military law who disobeys any lawful command given by his superior officer shall be guilty of a military offence and, on conviction by a court martial, shall—

(a) where such offence is committed by him while on active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and

(b) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe

punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Insubordination.

101. Every person subject to military law who—

- (a) being concerned in any quarrel, affray, or disorder, refuses to obey any officer (though of inferior rank) who orders him into arrest, or strikes or uses or offers violence to any such officer, or
- (b) strikes or uses or offers violence to any other person, whether subject to military law or not, in whose custody he is placed, and whether such other person is or is not his superior officer, or
- (c) resists an escort whose duty it is to arrest him or to have him in charge, or
- (d) being a soldier, breaks out of barracks, camp, or quarters,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Neglect to obey garrison or other orders.

102. (1) Every person subject to military law who neglects to obey any general or garrison or other order shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years.

(2) In this section the expression "general order" does not include a regulation made under this Act.

DESERTION, FRAUDULENT ENLISTMENT. AND ABSENCE WITHOUT LEAVE

103. (1) Every person subject to military law who—

- (a) deserts or attempts to desert the army, or
- (b) persuades, endeavours to persuade, procures or attempts to procure, any person subject to military law to desert the army,

shall be guilty of a military offence and, on conviction by a court martial, shall—

- (i) where such offence is committed by him while on active service or under orders for active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and
- (ii) where such offence is committed by him under any other circumstances, be liable for the first offence to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, and for the second or any subsequent offence to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133,

(2) Where a person charged with the offence of deserting or attempting to desert the army has fraudulently enlisted once or oftener he may, for the purposes of trial for that offence, be deemed to belong to any one or more of the corps to which he has been appointed or transferred as well as to the corps to which he properly belongs ; and it shall be lawful to charge such a person with any number of offences under this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly; and further it shall be lawful on conviction of such a person for two or more such offences to award him the higher punishment allowed by this section for a

second offence as if he had been convicted by a previous court martial of one of such offences.

(3) For the purposes of the liability under this section to the higher punishment for a second offence, a previous offence of fraudulent enlistment may be reckoned as a previous offence under this section.

104. (1) Every person subject to military law who, when belonging to the Regular Force or Regular Reserve and without having obtained a regular discharge therefrom or otherwise fulfilled the conditions enabling him to enlist or enrol, enlists or enrolls himself in the Volunteer Force or in any naval or air force in Sri Lanka, or who, when belonging to the Volunteer Force or Volunteer Reserve or to any naval or air force of Sri Lanka and without having obtained a regular discharge therefrom or otherwise fulfilled the conditions enabling him to enlist or enrol, enlists or enrolls himself in the Regular Force, shall be guilty of the military offence of fraudulent enlistment and shall, on conviction by a court martial, be liable—

- (a) for the first offence to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, and
- (b) for the second or any subsequent offence to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

(2) Where a person has fraudulently enlisted on several occasions he may, for the purposes of this section, be deemed to belong to any one or more of the corps to which he has been appointed or transferred as well as to the corps to which he properly belongs; and it shall be lawful to charge such a person with any number of offences under this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly; and further it shall be lawful on conviction of such a person for two or more such offences to award him the higher

punishment allowed by this section for a second offence as if he had been convicted by a previous court martial of one of such offences.

(3) Where a person is convicted of the offence of fraudulent enlistment, then for the purposes of his liability under this section to the higher punishment for a second offence, the offence of deserting or attempting to desert the army may be reckoned as a previous offence of fraudulent enlistment under this section, with the exception that the offence of deserting or attempting to desert committed by him next before any offence of fraudulent enlistment shall not upon his conviction of that fraudulent enlistment be reckoned as a previous offence of deserting or attempting to desert.

105. Every person subject to military law who—

- (a) assists any person subject to military law to desert the army, or
- (b) being cognizant of any desertion or intended desertion of a person subject to military law, does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter or intending deserter to be arrested,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

106. Every person subject to military law who—

- (a) absents himself without leave, or
- (b) fails to appear at the place of parade or rendezvous appointed by his commanding officer, or goes from thence without leave before he is relieved, or without urgent necessity quits the ranks, or
- (c) being a soldier, when in camp or garrison or elsewhere, is found beyond any limits fixed or in any

Assistance of or connivance at desertion.

Absence from duty without leave.

Fraudulent enlistment.

place prohibited by any general or garrison or other order, without a pass or written leave from his commanding officer, or

- (d) being a soldier without leave from his commanding officer, or without due cause absents himself from any school when duly ordered to attend there,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

DISGRACEFUL CONDUCT

Scandalous conduct of officer.

107. Every officer who, being a person subject to military law, behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, shall be guilty of a military offence and shall, on conviction by a court martial, be cashiered.

Fraud by person in charge of property.

108. Every person subject to military law who, being charged with or concerned in the care or distribution of any public or regimental or garrison property, dishonestly misappropriates, or commits theft or criminal breach of trust of, such property, or abets the dishonest misappropriation, or the committing of theft or criminal breach of trust of, such property, or wilfully damages such property, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

Disgraceful conduct.

109. Every person subject to military law who—

- (a) malingers, or feigns or causes in himself disease or infirmity, or
- (b) wilfully maims or injures himself or any other person subject to military law, whether at the instance of that

person or not, with intent thereby to render himself or that person unfit for service, or causes himself to be maimed or injured by any person with intent thereby to render himself unfit for service, or

- (c) by wilful misconduct, or by wilful disobedience of orders whether in hospital or otherwise, produces or aggravates disease or infirmity, or delays its cure, or

- (d) dishonestly misapplies, or commits theft or criminal breach of trust of, or knowing it to be stolen property receives, any property belonging to a person subject to military law, or belonging to any regimental band, regimental or garrison mess, or regimental or garrison institution, or to any navy, army or air force institute, or any public property, or

- (e) commits any other fraudulent act hereinbefore not particularly specified, or any act of a cruel, indecent or unnatural kind,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

DRUNKENNESS

110. Every person subject to military law who is drunk, whether on duty or while not on duty, shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133 and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, or to pay a fine not exceeding fifty rupees, or to suffer such imprisonment or such punishment as well as to pay such fine :

Provided that, where such person is a soldier and such offence is committed by

him while he is not on active service or on duty, the sentence passed on him shall not exceed detention for a period of six months, with or without the addition of such fine.

assistant provost marshal an account in writing signed by himself of the offence with which the person so committed is charged, or

OFFENCES IN RELATION TO PERSONS
IN CUSTODY

Permitting
escape of
person in
custody.

111. Every person subject to military law who—

- (a) when in command of a guard, piquet, patrol, or post, releases without proper authority, whether wilfully or otherwise, any person committed to his charge, or
- (b) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he has acted wilfully, to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and in any other case to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Irregular
arrest or
confinement.

112. Every person subject to military law who—

- (a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation, or
- (b) having committed a person to the custody of any officer, non-commissioned officer, provost marshal, or assistant provost marshal, fails without reasonable cause to deliver at the time of the committal, or as soon as practicable, and in any case within twenty-four hours thereafter, to such officer, non-commissioned officer, provost marshal, or

- (c) being in command of a guard and having received any person into his custody, does not as soon as he is relieved from his guard or duty, or, if he is not sooner relieved, within twenty-four hours after that person is committed to his custody, give in writing, to the officer to whom he may be ordered to report, that person's name and offence so far as known to him, and the name and rank of the officer or other person by whom that person was charged, accompanied, if he has received the written account mentioned in paragraph (b), by that account,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Escape from
confinement.

113. Every person subject to military law who, being under arrest, or in confinement or prison, or otherwise in lawful custody, escapes or attempts to escape, shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133 and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

OFFENCES IN RELATION TO PROPERTY

114. Every person subject to military law who takes any reward, fee, or advantage in respect of or in connexion with the purchase of provisions or merchandise brought into any garrison, camp, station, barracks, or place, in which he has any command or authority, or the purchase of

Corrupt
dealings in
respect of
supplies
to army.

any provisions or stores for the use of the army or any part of the army, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Deficiency in, and injury to, equipment.

115. Every person subject to military law who—

- (a) whether by pawning, sale, destruction, or otherwise, makes away with, or is concerned in making away with, his arms, ammunition, equipment, instruments, clothing, regimental necessaries, or any vehicle, vessel, or animal of which he has charge, or any public property issued to him for his use or entrusted to his care for military purposes, or
- (b) loses by neglect any property in the foregoing provisions of this section mentioned, or
- (c) whether by pawning, sale, destruction, or otherwise, makes away with any military decoration granted to him, or
- (d) wilfully injures any property in the foregoing provisions of this section mentioned, or any property belonging to any member of the army, or to any regimental band, regimental or garrison mess, or regimental or garrison institution, or to any navy, army or air force institute, or any public property, or
- (e) ill-treats any animal used in the army,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

OFFENCES IN RELATION TO FALSE DOCUMENTS AND STATEMENTS

116. Every person subject to military law who—

Falsifying official documents; and false declarations.

- (a) in any report, return, muster roll, pay list, certificate, book, route, or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes or is privy to the making of—
 - (i) any false or fraudulent statement, or
 - (ii) any omission with intent to defraud, or
- (b) knowingly and with intent to injure any person or to defraud, suppresses, defaces, alters, or makes away with any document which it is his duty to preserve or produce, or
- (c) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

117. Every person subject to military law who—

Neglect to report, and signing in blank.

- (a) when signing any document relating to pay, arms, ammunition, equipment, regimental necessaries, furniture, bedding, blankets, sheets, utensils, clothing, provisions, forage, or stores, leaves in blank any material part for which his signature is a warranty, or
- (b) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a

soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe-punishment in the scale set out in section 133.

False accusation or false statement.

118. Every person subject to military law who—

- (a) being an officer or soldier, makes a false accusation against any other officer or soldier, knowing such accusation to be false, or
- (b) being an officer or soldier, in making a complaint where he thinks himself wronged, knowingly makes any false statement affecting the character of any other officer or soldier, or knowingly and wilfully suppresses any material facts, or
- (c) being a soldier, falsely states to his commanding officer that he has been guilty of desertion or of fraudulent enlistment, or of desertion from any naval or air force of Sri Lanka, or has served in and been discharged from the army or any such naval or air force,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

OFFENCES IN RELATION TO COURTS MARTIAL

119. Every person subject to military law who—

- (a) being duly summoned to attend as a witness before a court martial, makes default in attending, or
- (b) refuses to take an oath or make an affirmation lawfully required by a court martial to be taken or made, or
- (c) refuses to produce any document in his power or control lawfully required by a court martial to be produced by him, or

Offences in relation to courts martial.

(d) refuses when a witness to answer any question to which a court martial may lawfully require an answer, or

(e) commits contempt of a court martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court martial,

shall be guilty of a military offence and shall, on conviction by a court martial, other than the court martial in relation to or before which the offence was committed, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133 :

Provided that where a person subject to military law is guilty of contempt of a court martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court martial, such court martial may, instead of causing him to be tried by another court martial, sentence him to simple or rigorous imprisonment, or, if he is a soldier, to detention, for a term not exceeding twenty-one days.

120. Every person subject to military law who, when examined on oath or affirmation before a court martial or by any officer authorized by this Act to examine him on oath or affirmation, wilfully gives false evidence, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

False evidence.

OFFENCES IN RELATION TO ENLISTMENT

121. (1) Every person subject to military law who, having been dismissed with disgrace from the army or from any naval or air force of Sri Lanka, has afterwards enlisted in the army without

Enlistment of soldier, airman or sailor discharged with disgrace.

declaring the circumstances of his dismissal, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

(2) For the purposes of this section, the expression " dismissed with disgrace " means dismissed for misconduct or on account of conviction of an offence for which a sentence of imprisonment is passed.

122. Every person subject to military law who, when enlisted as a soldier, has wilfully made a false answer to any question set out in the attestation paper signed by him, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

123. Every person subject to military law who—

- (a) is concerned in the enlistment of any other person in the army, when he knows or has reasonable cause to believe that such other person by enlisting commits an offence, or
- (b) wilfully contravenes any provision of law relating to the enlistment of soldiers,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

MISCELLANEOUS MILITARY OFFENCES

124. Every person subject to military law who uses traitorous or disloyal words regarding the President shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple

or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

125. Every person subject to military law who, orally or in writing, or by signal or otherwise, discloses the numbers or position of any forces in Sri Lanka, or any magazines or stock of such forces, or any preparations for, or orders relating to, operations or movements of such forces, at such time and in such manner as, in the opinion of the court martial, to have produced effects injurious to such forces, shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

126. Every officer, warrant officer or non-commissioned officer who—

- (a) strikes or ill-treats any soldier, or
- (b) having received the pay of any officer or soldier, unlawfully detains or unlawfully refuses to pay it when due,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a warrant officer or a non-commissioned officer, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

127. Every person subject to military law who—

- (a) fights, or promotes, or is concerned in or connives at fighting, a duel, or
- (b) attempts to commit suicide,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or

Injurious disclosures.

Ill-treating soldier.

Duelling and attempting to commit suicide.

False answers on enlistment.

General offences in relation to enlistment.

Traitorous words.

to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Refusal to deliver to civil court officers and soldiers accused of civil offences.

128. Every person subject to military law who, on application being made to him, neglects or refuses to deliver to a civil court, or to assist in the lawful arrest of, any officer or soldier accused of an offence punishable by a civil court, shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Conduct prejudicial to military discipline.

129. (1) Subject to the provisions of subsection (2) of this section, every person subject to military law who, by any act, conduct, disorder, or neglect, prejudices good order and military discipline, shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

(2) No person shall be charged under subsection (1) of this section in respect of any act, conduct, disorder, or neglect, which constitutes an offence for which special provision is made in any other section of this Act and which is not a civil offence.

Illegal gratification in connexion with appointment or promotion.

130. Every person subject to military law who gives or receives, or aids the giving or receiving of, any valuable consideration in respect of any appointment or promotion in or retirement from the army, or any employment therein, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to be dismissed from the army.

PART XIII

PUNISHMENTS BY COURTS MARTIAL IN RESPECT OF CIVIL OFFENCES

131. (1) Where a person subject to military law is convicted by a court martial of the offence of treason, he shall be liable to suffer death.

Treason, murder, culpable homicide not amounting to murder, and rape.

(2) Where a person subject to military law is convicted by a court martial of the offence of murder, he shall be liable to suffer death.

(3) Where a person subject to military law is convicted by a court martial of the offence of culpable homicide not amounting to murder, he shall be liable to suffer simple or rigorous imprisonment for a term not exceeding twenty years.

(4) Where a person subject to military law is convicted by a court martial of the offence of rape, he shall be liable to suffer simple or rigorous imprisonment for a term not exceeding twenty years.

132. Where a person subject to military law is convicted by a court martial of any civil offence not mentioned in section 131, he shall be liable—

Any civil offence not mentioned in section 131.

(a) if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, or

(b) to suffer the punishment prescribed for such offence by any law of Sri Lanka other than this Act.

PART XIV

SCALE OF PUNISHMENTS BY COURTS MARTIAL

133. (1) Subject to the provisions of section 134, the following shall be the scale of punishments, in descending order of severity, which may be inflicted on officers convicted of offences by courts martial:—

Scale of punishments by courts martial.

(a) death;

(b) rigorous imprisonment;

- (c) simple imprisonment;
- (d) cashiering;
- (e) dismissal from the army;
- (f) forfeiture, in the prescribed manner, of seniority of rank, either in the army or in the corps to which the offender belongs, or in both; or, in the case of an officer whose promotion depends upon length of service, forfeiture of all or any part of his service for the purposes of promotion;
- (g) severe reprimand or reprimand;
- (h) such penal deductions from pay as are authorized by this Act.

(2) Subject to the provisions of section 134, the following shall be the scale of punishments, in descending order of severity, which may be inflicted on soldiers convicted of offences by courts martial:—

- (a) death;
- (b) rigorous imprisonment;
- (c) simple imprisonment;
- (d) detention for a term not exceeding three years;
- (e) discharge with ignominy from the army;
- (f) dismissal from the army;
- (g) in the case of a warrant officer or a non-commissioned officer, reduction to the ranks or to a lower grade, or forfeiture, in the prescribed manner, of seniority of rank;
- (h) in the case of a warrant officer or a non-commissioned officer, severe reprimand or reprimand;
- (i) such forfeitures of and deductions from pay, and such fines, as are authorized by this Act.

134. The following provisions shall apply in regard to punishments which may be inflicted by courts martial:—

Special provisions in regard to punishments by courts martial.

- (a) For the purposes of commutation and revision of sentence, detention shall not be deemed to be a less severe punishment than imprisonment if the term of detention is longer than the term of imprisonment.
- (b) An officer shall be sentenced to be cashiered before he is sentenced to imprisonment.
- (c) The Minister may cause the restoration of the whole or any part of any lost seniority or forfeited service in the case of an officer who may perform good and faithful service, or who may otherwise be deemed by the Minister to merit such restoration.
- (d) An officer or a non-commissioned officer when sentenced to forfeiture of seniority of rank and an officer when sentenced to forfeiture of all or any part of his service for the purposes of promotion may in addition be sentenced to be severely reprimanded or reprimanded.
- (e) A soldier when sentenced to imprisonment may, in addition thereto, be sentenced to be discharged with ignominy from the army.
- (f) Where a soldier on active service is guilty of any offence, it shall be lawful for a court martial to inflict for that offence such field punishment, other than flogging or attachment to a fixed object, as may be prescribed, and such field punishment shall be of the nature of personal restraint or of hard labour, but shall not be of a nature to cause injury to life or limb.
- (g) For the purpose of commutation of sentence the field punishment above mentioned shall be deemed to stand in the scale of punishment next below detention.

- (h) In addition to or in lieu of any other punishment in respect of any offence committed by a soldier on active service, it shall be lawful for a court martial to order that such soldier shall forfeit all ordinary pay for a period commencing on the day of the sentence and not exceeding three months.
- (i) In addition to or in lieu of any other punishment in respect of any offence, an offender convicted by a court martial may be sentenced to forfeiture of any deferred pay, service towards pension, military decoration, or military reward, in such manner as may be prescribed.
- (j) In addition to or in lieu of any other punishment in respect of any offence, an offender may be sentenced by a court martial to any deduction authorized by this Act to be made from his pay,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees-

136. Every person, other than a person subject to military law, who has knowingly made a false answer to any question put to him at an examination for his enlistment as a soldier shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding three months.

False answers by applicants for enlistment.

137. Every person, other than a person subject to military law, who falsely represents himself to any military, naval, air-force, or civil authority to be a deserter from the army shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding three months.

Pretending to be a deserter.

138. Every person, other than a person subject to military law, who by any means—

Inducing or assisting officers or soldiers to desert or absent themselves without leave.

- (a) procures or persuades any officer or soldier to desert or absent himself without leave, or attempts to procure or persuade any officer or soldier to desert or absent himself without leave, or
- (b) knowing that an officer or soldier is about to desert or absent himself without leave, aids or assists him in deserting or absenting himself without leave, or
- (c) knowing any officer or soldier to be a deserter or absentee without leave, conceals such officer or soldier or aids or assists him in concealing himself, or aids or assists in his rescue from arrest,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding six months.

PART XV

OFFENCES UNDER THIS ACT WHICH ARE NOT MILITARY OFFENCES

135. Every person, other than a person subject to military law, who without due authority—

- (a) publishes or causes to be published notices or advertisements for the purpose of procuring recruits for the army, or relating to recruits for the army, or
- (b) opens or keeps any house, place of rendezvous or office connected with the procuring of recruits for the army, or
- (c) receives any person under any such notice or advertisement as aforesaid, or
- (d) directly or indirectly interferes with a duly appointed recruiter in the discharge of his duties,

Unlawful recruiting. [§ 2, 22 of 1964.]

Interference with military duties.

139. Every person, other than a person subject to military law, who—

- (a) wilfully obstructs, impedes, or otherwise interferes with any officer or soldier in the execution of his duties, or
- (b) wilfully produces any disease or infirmity in, or maims or injures, any person whom he knows to be a soldier with a view to enabling such person to avoid military service, or
- (c) with intent to enable a soldier to render himself, or induce the belief that he is, permanently or temporarily unfit for service, supplies to, or for the use of, such soldier any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding six months, or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

Illegal gratification to persons not subject to military law in respect of appointments or promotions in the army.

140. Every person, other than a person subject to military law, who gives or receives, or aids the giving or receiving of, any valuable consideration in respect of any appointment or promotion in or retirement from the army, or any employment therein, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees, or to simple or rigorous imprisonment for a term not exceeding six months.

Purchase of regimental necessaries, equipment, stores, &c.

141. (1) Every person, other than a person subject to military law, who—

- (a) buys, exchanges, takes in pawn, detains, or receives from any person, on any pretence whatsoever, or
- (b) solicits or entices any person to sell, exchange, pawn, or give away, or

(c) assists or acts for any person in selling, exchanging, pawning, or making away with,

any arms, ammunition, equipment, instruments, regimental necessaries, or clothing issued for the use of officers or soldiers, or any military decorations of any officer or soldier, or any furniture, bedding, blankets, sheets, utensils, or stores in regimental charge, or any provisions or forage issued for the use of any officer or soldier or of any horse belonging to the army, or any other property of the army, shall, unless he proves either that he acted in ignorance of the fact that such article was the property of the army, or that it was purchased at a sale held by order or with the consent of the Minister or the Commander of the Army, or that it was the personal property of an officer who had retired or ceased to be an officer, or of a soldier who had been discharged, or of the legal representative of any officer or soldier who had died, be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees, together with a penalty of treble the value of any property of which such person has become possessed by means of his offence, or to simple or rigorous imprisonment for a term not exceeding six months, or to both such fine and imprisonment. Such penalty may be recovered in like manner as a fine imposed by the Magistrate.

(2) Where any property mentioned in subsection (1) of this section is found in the possession or keeping of any person, such person may be taken or summoned before a Magistrate's Court, and if such court has reasonable ground to believe that the property so found was stolen, or was bought, exchanged, taken in pawn, obtained or received in contravention of this section, then if such person does not satisfy such court that he came by the property so found lawfully and without any contravention of this Act, he shall be liable, on conviction after summary trial, to the same punishments as are prescribed in the case of a contravention of the last preceding subsection.

(3) A person found committing an offence under this section may be arrested without warrant, and taken, together with the property which is the subject of the offence, before a Magistrate's Court; and any person to whom any property mentioned in subsection (1) of this section is offered to be sold, pawned, or delivered, and who has reasonable cause to suppose that it is offered in contravention of this section, may, and, if he has the power, shall, arrest the person offering such property, and forthwith take him, together with such property, before a Magistrate's Court.

(4) A Magistrate's Court, if satisfied on the evidence on oath or affirmation of any person that there is reasonable cause to suspect that any other person has in his possession, or on his premises, any property with respect to which any offence in this section mentioned has been committed, may grant a warrant to search for such property, as in the case of stolen property; and the officer charged with the execution of such warrant shall seize any such property found on search of that other person or his premises and shall bring the person in whose possession such property is found before such court to be dealt with according to law.

(5) For the purposes of this section, property shall be deemed to be in the possession or keeping of a person if it is possessed or kept for him by any other person.

Unlawful possession of military certificates, &c.

142. Every person, other than a person subject to military law, who—

- (a) receives or has in his possession any identity certificate, life certificate, or other certificate, or official document evidencing or issued in connexion with the right of any person to a military pension or pay, or to any bounty, allowance, gratuity, relief, benefit or advantage granted in connexion with military service, as a pledge or security for a debt or with a view to obtain payment from the person entitled thereto of a debt due either to the first-mentioned person or to any other person, or

- (b) without lawful authority or excuse (the proof whereof shall lie on the accused) has in his possession any such certificate or document, or any certificate of discharge or any other official document issued in connexion with the mobilization or demobilization of the army or any member thereof,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to the like punishments as for an offence under section 141.

143. Every person, other than a person subject to military law, who—

Unauthorized use of decorations, &c.

- (a) without lawful authority uses or wears any military decoration or medal, or medal ribbon, or any badge, wound stripe, or emblem supplied or authorized by the President, or any imitation thereof which is calculated to deceive, or
- (b) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, medal, or medal ribbon, badge, wound stripe, or emblem, or
- (c) without lawful authority or excuse supplies or offers to supply any such decoration, medal, medal ribbon, badge, wound stripe, or emblem to any person not authorized to use or wear it,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees or to simple or rigorous imprisonment for a term not exceeding three months;

Provided that nothing in this section shall be deemed to prohibit the wearing or supply of any ordinary regimental badge or any brooch or ornament representing it by or to any person who is not a member of the regiment to which the badge belongs.

144. (1) It shall be the duty of every employer to give all proper facilities for enabling any person in his employ to

Obligations of employers.

become or to be a member of the Volunteer Force or the Volunteer Reserve and any such person who is a member of that force or reserve to undergo and render such military training and military service as he may be required to undergo and render by virtue of this Act.

- (2) Any employer who—
 - (a) fails to give the facilities referred to in subsection (1) of this section, or
 - (b) by dismissing an employee or by reducing his wages or in any other manner penalizes him for undergoing or rendering any training or service referred to in that subsection,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred rupees, or to both such imprisonment and fine.

Misconduct of civilian witness at court martial.

145. Where any person, other than a person subject to military law—

- (a) being duly summoned as a witness before a court martial and after payment or tender of the reasonable expenses of his attendance, makes default in attending the court martial, or
- (b) being in attendance as a witness before a court martial—
 - (i) refuses to take any oath or make any affirmation which he is lawfully required by the court martial to take or to make, or
 - (ii) refuses to produce any document, in his power or control, which he is lawfully required by the court martial to produce, or
 - (iii) refuses to answer any question which he is lawfully required by the court martial to answer,

he shall be deemed to commit an offence; and the president of the court martial may under his hand certify such offence of that person to the nearest civil court, and that court may thereupon deal with that person in like manner as if he had committed a like offence in that court.

146. (1) Where any person, other than a person subject to military law, wilfully gives false evidence when examined on oath or affirmation before a court martial, he shall be deemed to commit the offence of giving false evidence under Chapter XI of the Penal Code and may be prosecuted and punished accordingly.

False evidence by civilian witness at, and contempt of civilian towards, court martial.

(2) Where any person, other than a person subject to military law, uses insulting or threatening language about or towards a court martial, or causes any interruption or disturbance in its proceedings, or prints or publishes observations or utters words calculated to influence the members of or witnesses before a court martial or to bring a court martial into disrepute, he shall be deemed to commit the offence of contempt of that court martial; and the president of that court martial may under his hand certify such offence of that person to the Court of Appeal, and that court may thereupon deal with that person in like manner as if he had been charged with the offence of contempt committed against or in disrespect of the authority of that court.

147. Where any person promotes or organizes or is a member of any association or body of persons who, without the permission of the President, are being trained in the use of any weapon of war or are undergoing any training of a military nature, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding six months.

Unauthorized training of a military nature.

PART XVI

DESERTERS AND ABSENTEES
WHHOLIT LEAVE

148. When any soldier has been absent without leave from his duty for a period of twenty-one days—

Inquiry into absence of soldier.

- (a) a court of inquiry may as soon as practicable be assembled, and

inquire in the prescribed manner, on oath or affirmation which such court is hereby authorized to administer, respecting the fact of the soldier's absence, and the deficiency, if any, in the arms, ammunition, equipment, instruments, regimental necessaries or clothing of the soldier, or in any public property issued to him for his use in connexion with his duties or entrusted to his care for military purposes; and

- (b) if satisfied of the fact of the soldier's absence without leave or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and
- (c) the commanding officer of the absent soldier shall enter in the regimental books a record of the declaration of such court; and
- (d) if the absent soldier does not afterwards surrender or is not arrested, such record shall have the legal effect of a conviction by a court martial for desertion.

Confession by soldier of desertion or fraudulent enlistment.

149. (1) Where a soldier signs a confession that he has been guilty of the military offence of desertion or of fraudulent enlistment, a competent military authority may by order dispense with his trial by a court martial and award the same forfeitures and the same deductions from pay as a court martial is empowered by this Act to award for such offence.

(2) If, in any case where a soldier makes any confession referred to in subsection (1) of this section, evidence of the truth or falsehood of such confession cannot be conveniently obtained, a record of such confession, certified by the commanding officer of the soldier, shall be made in the regimental books, and the soldier shall continue to do duty in the corps in which he may then be serving, or in any other corps to which he may be transferred, until he is discharged or transferred to the reserve, or until legal proof can be obtained of the truth or falsehood of such confession,

(3) For the purposes of this section, "competent military authority" means the President, or any such officer of a rank not below that of Colonel as is authorized by the President.

150. The following provisions shall have effect with respect to deserters and absentees without leave:—

Arrest of deserters and absentees without leave.

- (1) Upon reasonable suspicion that a person is a deserter or absentee without leave, it shall be lawful for any police officer, or if there is no police officer at hand, then for any officer or soldier or other person, to arrest such suspected person, and forthwith to bring him before a Magistrate's Court.
- (2) A Magistrate's Court, if satisfied by evidence on oath or affirmation that a deserter or absentee without leave is or is reasonably suspected to be within the jurisdiction of that court, may issue a warrant authorizing such deserter or absentee to be arrested and brought forthwith before that court.
- (3) Where a person is brought before a Magistrate's Court charged with being a deserter or absentee without leave under this Act, that court—

(a) if satisfied, either by independent evidence taken on oath or affirmation or by the confession of such person, that he is a deserter or absentee without leave, shall forthwith, as it may seem to that court most expedient with regard to his safe custody, cause him either to be delivered into military custody in such manner as that court may deem most expedient, or, until he can be so delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such time as appears to that court reasonably necessary for the purpose of delivering him into military custody, and

PART XVII

IMPRISONMENT AND DETENTION

- (b) where such person confesses himself to be a deserter or absentee without leave and that court is not convinced of the truth of the confession, shall remand such person for the purpose of obtaining information as to the truth or falsehood of the confession, and for that purpose that court shall transmit to the Commander of the Army a return (in this Act referred to as a "descriptive return") in such form and containing such particulars as may be prescribed.
- (4) The court may, from time to time, remand the person referred to in subsection (3) of this section for a period not exceeding eight days in each instance.
- (5) Where under paragraph (3) (a) of this section a court causes a person either to be delivered into military custody or to be committed as a deserter or absentee without leave, the court shall send to the Commander of the Army a descriptive return in relation to such deserter or absentee without leave.
- (6) Where a person surrenders himself to a police officer as being a deserter or absentee without leave, the officer in charge of the police station to which he is brought shall forthwith inquire into the case, and, if it appears to him from the confession of that person that that person is a deserter or absentee without leave, may cause that person to be delivered into military custody without bringing him before a Magistrate's Court under this section, and in such case shall send to the Commander of the Army a certificate signed by himself as to the fact, date, and place of the surrender of that person.

151. (1) An order of the competent military authority shall be a sufficient warrant for the committal of a military prisoner to prison or detention barracks, or a soldier under sentence of detention to detention barracks.

Committal, removal, release, &c., of military prisoner or soldier undergoing detention.

(2) An order of the competent military authority shall be a sufficient authority for the transfer of a military prisoner from prison to detention barracks, or vice versa, or from any prison or detention barracks to any other prison or detention barracks, or for the transfer of a soldier undergoing detention from any detention barracks to any other detention barracks, or for the delivery into military custody of a military prisoner or a soldier undergoing detention.

(3) A military prisoner or a soldier undergoing detention may at any time, if his sentence is remitted, be released by order of the competent military authority.

(4) A military prisoner or a soldier undergoing detention may, during his conveyance from place to place, or when on board ship or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

(5) For the purposes of this section, "competent military authority" means the President or any such officer of a rank not below that of Colonel as is authorized by the President.

152. (1) A military prisoner while in a civil prison shall be confined, kept to hard labour, and otherwise dealt with in the same manner as an ordinary prisoner under a like sentence of imprisonment.

Military prisoners in civil prisons.

(2) Where the hospital or place for reception of sick persons in any prison or detention barracks is detached from the prison or detention barracks, a military prisoner or a soldier undergoing detention may be detained in that hospital or place, and conveyed to or from it as circumstances require.

Duty of
superintendent
of any prison.

153. (1) The superintendent of every prison in Sri Lanka shall receive and confine, until the time of discharge or delivery into any other lawful custody—

- (a) all prisoners sent to such prison in pursuance of this Act, and
- (b) every person delivered into his custody as a deserter or absentee without leave by any person conveying him under legal authority on production of the warrant of a Magistrate's Court on which such deserter or absentee without leave has been taken or committed.

(2) Every superintendent referred to in subsection (1) of this section shall also receive into his custody for a period not exceeding seven days any soldier in military custody upon delivery to him of a written order purporting to be signed by the commanding officer of such soldier.

(3) The provisions of this section with respect to the superintendent of a prison in Sri Lanka shall apply to a person having charge of any police station or other place in which prisoners may legally be confined.

Establishment
and regulation
of military
prisons and
detention
barracks.

154. (1) It shall be lawful for the Minister to set apart any building or part of a building under his control as a military prison or as detention barracks.

(2) In any country in which operations against the enemy are being conducted, the powers of the Minister under subsection (1) of this section and the powers of the Minister to make regulations in respect of any of the matters mentioned in paragraphs (q), (r), (s) and (t) of subsection (1) of section 155 shall be exercised by the officer for the time being in command of the forces of Sri Lanka in the field, and the limitations contained in subsection (2) of section 155 on the power of making regulations as to the punishment of prisoners and soldiers undergoing detention and as to the severity of imprisonment and detention shall not apply:

Provided that nothing in this subsection or in any regulations made thereunder shall authorize flogging or other corporal punishment to be inflicted for any offence.

(3) The powers conferred by subsection (2) of this section shall continue to be exercisable after the cessation of operations so long as the forces in the country in question are on active service.

PART XVIII

MISCELLANEOUS

155. (1) Subject to the provisions of Regulations. subsection (2) of this section, the Minister may make regulations in respect of all or any of the following matters;—

- (a) the uniforms to be worn by members of the army;
- (b) the training of members of the army;
- (c) the discipline of members of the army;
- (d) the disbandment of the whole or a part of any corps of the army;
- (e) the termination of the services of any member of the army;
- (f) the administration of the army;
- (g) the assembly and procedure of courts of inquiry;
- (h) the convening and constituting of courts martial;
- (i) the adjournment, dissolution, and sittings of courts martial;
- (j) the procedure to be observed in trials by courts martial;
- (k) the confirmation and revision of the findings and sentences of courts martial;
- (l) the carrying into effect of sentences of courts martial;
- (m) the forms of orders to be made under the provisions of this Act relating to courts martial, imprisonment, or detention;
- (n) any matter in this Act stated or required to be prescribed ;

- (o) any matter in respect of which regulations are authorized by any other provision of this Act;
- (p) any matter expedient or necessary for the purpose of carrying this Act into execution so far as relates to the investigation, trial, and punishment of military offences;
- (q) the government, management, and regulation of military prisons and detention barracks;
- (r) the appointment, removal, powers and duties of inspectors, visitors, superintendents and officers of military prisons and detention barracks;
- (s) the labour of prisoners in military prisons and of soldiers undergoing detention in detention barracks, and the enabling of such prisoners or soldiers to earn, by special industry and good conduct, a remission of portion of their sentence;
- (t) the safe custody of the aforesaid prisoners or soldiers, the maintenance of discipline among them, the punishment by personal correction, restraint or otherwise of offences committed by them, and the temporary release of them in such cases, for such periods, and subject to such conditions, as may be prescribed.

(2) No regulation made in respect of the matters mentioned in paragraph (s) or paragraph (t) of subsection (1) of this section shall authorize corporal punishment to be inflicted for any offence, nor render the imprisonment or detention more severe than it is, under the law in force for the time being, in any civil prison.

(3) The regulations as to the procedure of courts of inquiry may provide for the taking of evidence on oath or affirmation and may empower such courts to administer oaths or affirmations for that purpose.

(4) The regulations as to the investigation of a charge may provide for

the taking of a written summary of the evidence on oath or affirmation, and may empower a commanding officer, or any other officer before whom he directs such summary to be taken, to administer oaths or affirmations for that purpose.

(5) Every regulation made by the Minister under this section shall be published in the Gazette and shall come into operation from the date on which it is so published.

(6) Every regulation made by the Minister under this section shall, as soon as practicable, be brought before Parliament by motions that such regulation shall be approved.

(7) Any regulation which Parliament refuses to approve shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which a regulation shall be so deemed to be rescinded shall be the date on which Parliament refuses to approve it.

(8) Notification of the date on which any regulation made by the Minister under this section is deemed to be rescinded shall be published in the Gazette.

156. Every regulation which has been made under the Defence Force Ordinance, No. 8 of 1910, repealed by Act No. 17 of 1949, and which is in force on the day immediately preceding the appointed date shall, in so far as it applies to any Defence Corps formed under that Ordinance and in existence on that day, continue to be in force as if it had been made under this Act, subject to amendment or rescission by regulation made under this Act.

Continuance in force of regulations made under the Defence Force Ordinance.

156A. Notwithstanding the repeal of the Defence Force Ordinance, No. 8 of 1910, by Act No. 17 of 1949, section 17 of that Ordinance, as amended by Ordinance No. 5 of 1945, shall be deemed to be in force for the purpose of awarding a pension or gratuity to any person who but for such repeal would have been eligible for a

Special provisions relating to the payment of pensions and gratuities to certain members of the Ccyion Defence Force. [§ 3, 22 of 1964.]

pension or gratuity under that section, and accordingly—

- (a) a pension or gratuity may be awarded to any such person in accordance with the provisions of that section, and
- (b) the determination made under that section and published in Gazette No. 9,419 of June 15, 1945, shall continue in force subject to amendment or cancellation by the Minister by notification published in the Gazette.

trust of any property, or of receiving any property knowing it to be stolen property, and the property or any part thereof is found in the possession of that person, the authority confirming the conviction of, and the sentence passed on, that person by that court martial, or the Minister, may order the property so found to be restored to the person appearing to be the lawful owner thereof.

(2) Where any property found in the possession of any person referred to in subsection (1) of this section appears to the authority mentioned in that subsection or to the Minister to have been obtained by the conversion or exchange of any of the property referred to in that subsection, an order similar to an order under that subsection may be made by such authority or the Minister.

(3) Where it appears to the authority mentioned in subsection (1) of this section or to the Minister, from the evidence given before the court martial, that any part of the property referred to in that subsection was sold to or pawned with any person without any guilty knowledge on the part of that person, such authority or the Minister may, on the application of that person, and on the restitution of such property to the owner thereof, order that out of the money, if any, found in the possession of the offender, a sum not exceeding the amount of the proceeds of the sale or pawning shall be paid to that person.

(4) An order under this section shall not bar the right of any person, other than the offender or anyone claiming through him, to recover any property delivered in pursuance of such order from the person to whom it is so delivered.

(5) For the purposes of this section, "property" includes money.

156B. Section 17 of the Defence Force Ordinance, No. 8 of 1910, as amended by Ordinance No. 5 of 1945, which is deemed to be in force by virtue of the provisions of the preceding section of this Act shall, for the purposes of awarding a pension or gratuity to the widow or family of such officer or soldier as is referred to in the aforesaid section 17, be deemed always to have had effect subject to the following amendment, that is to say, the substitution, for the words "who dies within seven years of sustaining or contracting such wound, injury or disease:" in paragraph (c) of subsection (1) of the aforesaid section 17, of the words "who dies as a result of such wound, injury or disease : ", and accordingly a pension or gratuity may be awarded to any such widow or family in accordance with the provisions of the aforesaid section 17 as so amended.

157. All property belonging to the army or to any part of the army, other than the property of individual members of the army, and the exclusive right to sue for and recover moneys and other property due to the army or to any part of the army, shall vest in the Commander of the Army for the time being, with power for him to sue, to make contracts and conveyances, and to do all other lawful things relating to such property; and any civil or criminal proceedings taken by virtue of this section by the Commander of the Army shall not be discontinued and shall not abate by reason of his death, resignation, retirement, or removal from office, but may be carried on by and in the name of his successor in office.

158. (1) Where a person has been convicted by a court martial of the offence of committing theft or criminal breach of

159. Any power vested in, any report or other communication to be made to, and any act or thing to be done before, a person holding any military office may be exercised by, made to, or done before, any other person for the time being authorized in that behalf according to the custom of the army or according to regulations made under section 155.

Exercise of powers vested in holder of military office.

Special provisions relating to the payment of pensions and gratuities to widows and families of certain deceased members of the Ceylon Defence Force. [§ 2, 22 of 1971.]

Vesting of property of army in the Commander of the Army.

Power as to restitution of stolen property.

Provisions as to warrants and orders of military authorities.

160. (1) Where any order is authorized by this Act to be made by the Minister, the Commander of the Army, or any other officer commanding, such order may be signified by an order under the hand of any officer authorized to issue orders on behalf of the Minister, or Commander of the Army, or other officer commanding, and an order purporting to be signed by any officer appearing therein to be so authorized shall be evidence of his being so authorized.

(2) Subsection (1) of this section shall extend to any order or direction issued in pursuance of this Act in relation to a military prisoner or soldier undergoing detention, and any such order or direction shall not be held void by reason of the death or removal from office of the officer signing it or ordering its issue, or by reason of any defect in it, if it states that the prisoner or soldier has been convicted.

(3) An order in any case if issued in the prescribed form shall be valid, but an order deviating from the prescribed form if otherwise valid shall not be rendered invalid by reason only of the deviation.

(4) Where any military prisoner or soldier undergoing detention is for the time being in custody, whether military or civil, in any place or in any manner in which he might legally be kept in custody in pursuance of this Act, custody of such prisoner or soldier shall not be deemed to be illegal only by reason of any informality or error in or as respects the order, warrant, or other document, or the authority by or in pursuance whereof such prisoner or soldier was brought into or is detained in such custody, and any such order, warrant, or document may be amended accordingly.

(5) Where for the purpose of conveyance by sea, any person in military custody is delivered on board a ship to the person in command of the ship, the order of the military authority which authorizes the person in military custody to be conveyed by sea shall be a sufficient authority to the person in command of the ship to keep him in custody and convey him in accordance with the order, and the person kept in such custody shall be deemed to be in military custody.

161. (1) Where any member of any armed force raised outside Sri Lanka is attached to the army of Sri Lanka for duty and service with that army, he shall be subject to the provisions- of this Act while he is so attached.

Members of any foreign armed force attached to the army of Sri Lanka.

(2) Any member of any armed force raised outside Sri Lanka may, at the request of the commanding officer of that force and with the consent of the Minister, be attached to the army of Sri Lanka for exercise or training, and where such member is so attached, he shall be subject to the provisions of this Act save in respect of liability to be called out on active service.

162. In this Act unless the context otherwise requires—

Interpretation.

" active service " means service rendered—

- (a) in the defence of Sri Lanka in time of war, or
- (b) in the prevention or suppression of any rebellion, insurrection or other civil disturbance in Sri Lanka, or
- (c) in the performance of such duties as are referred to in section 23;

"appointed date " means the 10th day of October, 1949;

" army " means the Sri Lanka Army;

" civil court " means any court other than courts martial;

" civil offence " means an offence against any law of Sri Lanka which is not a military offence;

" civil prison " means any prison in which offenders sentenced to imprisonment by a civil court are confined;

" military prison" means a prison for military prisoners;

" military prisoner" means a person under sentence of imprisonment passed by a court martial;

" Minister " means the Minister in charge of the subject of Defence;

" non-commissioned officer " includes an acting non-commissioned officer, but does not include a warrant officer;

" officer " means an officer commissioned as an officer of the army ;

"prescribed" means prescribed by regulation made under this Act;

"soldier" does not include an officer as defined by this Act, but, subject to the special provisions in this Act contained in relation to warrant officers and non-commissioned officers, does include a warrant officer and a non-commissioned officer; and

" superior officer ", in relation to a soldier includes a warrant officer and a non-commissioned officer.