1. Short title and commencement.—(1) This Act may be called the Army Act, 1950.

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

2. Persons subject to this Act.—(1) The following persons shall be subject to this Act wherever they may be, namely:—

(a) officers, junior commissioned officers and warrant officers of the regular Army;

(b) persons enrolled under this Act;

(c) persons belonging to the Indian Reserve Forces;

(d) persons belonging to the Indian Supplementary Reserve Forces when called out for service or when carrying out the annual test;

(e) officers of the Territorial Army, when doing duty as such officers and enrolled persons of the said Army when called out or embodied or attached to any regular forces, subject to such adaptations and modifications as may be made in the application of this Act to such persons under sub-section (1) of section 9 of the Territorial Army Act, 1948 (LVI of 1948);

(f) Persons holding commissions in the Army in India Reserve of Officers, when ordered on any duty or service for which they are liable as members of such reserve forces;

(g) officers appointed to the Indian Regular Reserve of Officers, when ordered on any duty or service for which they are liable as members of such Reserve forces;

(h) (Omitted).

(i) persons not otherwise subject to military law, who, on active service, in camp, on the march or at any frontier post specified by the Central Government by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, the regular Army.

(2) Every person subject to this Act under clauses (a) to (g), sub-section (1) shall remain so subject until duly retired, discharged, released, removed, dismissed or cashiered from the service.

3. Definitions.—In this Act, unless the context otherwise requires,
(i) “active service”, as applied to a person subject to this Act, means the time during which such person—
(a) is attached to, or forms part of, a force, which is engaged in operations against an enemy, or
(b) is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or
(c) is attached to or forms part of a force which is in military occupation of a foreign country;
(ii) “civil offence” means an offence which is triable by a criminal court;
(iii) “civil prison” means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894 (IX of 1894), or under any other law for the time being in force;
(iv) (“Chief of the Army Staff” means the officer commanding the regular Army;)
(v) “commanding officer”, when used in any provision of this Act, with reference to any separate portion of the regular Army or to any department thereof, means the officer whose duty it is under the regulations of the regular Army, or in the absence of any such regulations, by the custom of the service to discharge with respect to that portion of the regular Army or that department as the case may be, the functions of a commanding officer in regard to matters of the description referred to in that provision;
(vi) “corps” means any separate body of persons subject to this Act, which is prescribed as a corps for the purposes of all or any of the provisions of this Act;
(vii) “court-martial” means a court-martial held under this Act;
(viii) “criminal court” means a court of ordinary criminal justice in any part of India;
(ix) “department” includes any division or branch of a department;
(x) “enemy” includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to military law to act;
(xi) “the Forces” means the regular Army, Navy and Air Force or any part of any one or more of them;
(xii) “junior commissioned officer” means a person commissioned, gazetted or in pay as a junior commissioned officer in the regular Army or the Indian Reserve Forces, and includes a person holding a junior commission in the’ Indian supplementary Reserve Forces, or the Territorial Army (3) who is for the time being subject to this Act;
(xiii) “military custody” means the arrest or confinement of a person according to the usages of the service and includes naval or air force custody;
(xiv) “military reward” includes any gratuity or annuity for long service or good conduct, good service pay or pension and any other military pecuniary reward;

(xv) “non-commissioned officer” means a person holding a non-commissioned rank or an acting non-commissioned rank in the regular Army or the Indian Reserve Forces and includes a non-commissioned officer or acting non-commissioned officer of the Indian supplementary Reserve Forces or the Territorial Army who is for the time being subject to the Act;

(xvi) “notification” means a notification published in the Official Gazette;

(xvii) “offence” means any act or omission punishable under this Act and includes a civil offence as here-in-before defined,

(xviii) “officer” means a person commissioned, gazetted or in pay as an officer in the regular Army, and includes—

(a) an officer of the Indian Reserve Forces;

(b) an officer holding a commission in the Territorial Army granted by the President with designation of rank corresponding to that of an officer of the regular Army who is for the time being subject to this Act;

(c) an officer of the Army in India Reserve of Officers who is for the time being subject to this Act;

(d) an officer of the India Regular Reserve of Officers who is for the time being subject to this Act;

(e) (Omitted);

(f) in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the Navy or Air Force; but does not include a junior commissioned officer, warrant officer, petty officer or non-commissioned officer;

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

(xx) “provost-marshal” means person appointed as such under section 107 and includes, any of his deputies or assistants or any other person legally exercising authority under him or on his behalf;

(xxi) “regular Army” means officers, junior commissioned officers, warrant officers, non-commissioned officers and other enrolled persons who, by their commission, warrant, terms of enrolment or otherwise, are liable to render continuously for a term military service to the Union in any part of the world, including persons belonging to the Reserve Forces and the Territorial Army when called out on permanent service;

(xxii) “regulation” includes a regulation made under this Act;

(xxiii) “superior officer”, when used in relation to a person subject to this Act, includes a junior commissioned officer, warrant officer and a non-commissioned
officer; and, as regards persons placed under his orders, an officer, warrant officer, petty officer and non-commissioned officer of the Navy or Air Force;

(xxiv) “warrant officer” means a person appointed, gazetted or in pay as a warrant officer of the regular Army or of the Indian Reserve Forces, and includes a warrant officer of the Indian Supplementary Reserve Forces or of the Territorial Army who is for the time being subject to this Act;

(xxv) all words (except the word India) and expressions used but not defined in this Act and defined in the Indian Penal Code (Act XLV of 1860) shall be deemed to have the meanings assigned to them in that Code.

CHAPTER II
SPECIAL PROVISIONS FOR THE APPLICATION OF ACT TO CERTAIN CASES

4. Application of Act to certain forces under Central Government.—(1) The Central Government may by notification, apply, with or without modifications, all or any of the provisions of this Act to any force raised and maintained in India under the authority of that Government and suspend the operation of any other enactment for the time being applicable to the said force.

(2) The provisions of this Act so applied shall have effect in respect of persons belonging to the said force as they have effect in respect of persons subject to this Act holding in the regular Army the same or equivalent rank, as the aforesaid persons hold for the time being in the said force.

(3) The provisions of this Act so applied shall also have effect in respect of persons who are employed by or are in the service of or are followers of or accompany any portion of the said force as they have effect in respect of persons subject to this Act under clause (i) of sub-section (1) of Section 2.

(4) While any of the provisions of this Act apply to the said force, the Central Government may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of the said force.

5. Repealed.

6. Special provision as to rank in certain cases.—(1) The Central Government may by notification, direct that any person or class of persons subject to this Act under the clause (i) of sub-section (1) of section 2 shall be so subject as officers, junior commissioned officers, warrant officers or non-commissioned officers and may authorise any officer to give a like direction and to cancel such direction.
(2) All persons subject to this Act other than officers, junior commissioned officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

7. **Commanding officer of persons subject to military law under clause (i) of subsection (1) of section 2.**—(1) Every person subject to this Act under clause (i) of subsection (1) of section 2 shall, for the purposes of this Act be deemed to be under the commanding officer of the corps department or detachment, if any, to which he is attached, and, if he is not so attached, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person for the time being is serving, or any other prescribed officer or if, no such officer is named or prescribed under the command of the said officer commanding the force.

(2) An officer commanding a force shall not place a person subject to this Act under clause (i) of subsection (1) of section 2 under the command of an officer of rank inferior to that of such person, if there is present at the place where such person is any officer of a higher rank under whose command he can be placed.

8. **Officers exercising powers in certain cases.**—(1) Whenever persons subject to this Act are serving under an officer commanding any military organisation not in this section specifically named and being in the opinion of the Central Government, not less than a brigade, that Government may prescribe the officer by whom the powers, which under this Act may be exercised by officers commanding armies, army corps, divisions and brigades, shall, as regards such persons, be exercised.

(2) The Central Government may confer such powers, either absolutely or subject to such restrictions, reservations, exceptions and conditions as it may think fit.

9. **Power to declare persons to be on active service**—Notwithstanding anything contained in clause (i) of section 3, the Central Government may, by notification, declare that any person or class of persons subject to this act shall, with reference to any area in which they may be serving or with reference to any provision of this Act or of any other law for the time being in force, be deemed to be on active service within the meaning of this Act.
CHAPTER III
COMMISSION, APPOINTMENT AND ENROLMENT

10. Commission and appointment.—The President may grant to such person as he thinks fit, a commission as an officer, or as junior commissioned officer or appoint any person as a warrant officer of the regular Army.

11. Ineligibility of aliens for enrolment.—No person who is not a citizen of India shall except with the consent of the Central Government signified in writing, be enrolled in the regular Army:
Provided that nothing contained in this section shall bar the enrolment of the subjects of Nepal in the regular Army.

12. Ineligibility of females for enrolment or employment.—No female shall be eligible for enrolment or employment in the regular Army, except in such corps, department, branch or other body forming part of or attached to any portion of, the regular Army as the Central Government, may, by notification in the Official Gazette, specify in this behalf:
Provided that nothing contained in this section shall affect the provisions of any law for the time being in force providing for the raising and maintenance of any service auxiliary to the regular Army or any branch thereof in which females are eligible for enrolment or employment.

13. Procedure before enrolling officer.—Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled and shall put to him the questions set forth in the prescribed form of enrolment and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

14. Mode of enrolment.—If, after complying with the provisions of section 13, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if such officer perceives no impediment he shall sign and shall also cause such person to sign the enrolment paper, and such person shall thereupon be deemed to be enrolled.

15. Validity of enrolment.—Every person who has for the space of three months been in receipt of pay as a person enrolled under this Act and been borne on the rolls of any corps or department shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of any irregularity or
illegality in his enrolment or on any other ground whatsoever; and if any person, in receipt of such pay and borne on the rolls as aforesaid, claims his discharge before the expiry of three months from his enrolment, no such irregularity or illegality or other ground shall, until he is discharged in pursuance of his claim affect his position as an enrolled person under this Act or invalidate any proceeding, act or thing taken or done prior to his discharge.

16. Persons to be attested.— The following persons shall be attested namely:
(a) all persons enrolled as combatants;
(b) all persons selected to hold a non-commissioned rank; and
(c) all other persons subject to this Act as may be prescribed by the Central Government.

17. Mode of attestation.—(1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his corps or such portion thereof or such members of his department, as may be present, or by any other prescribed person.
(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will bear true allegiance to the Constitution of India as by law established, and that he will serve in the regular Army and go wherever he is ordered by land, sea or air and that he will obey all commands of any officer set over him, even to the peril of his life.
(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper and authenticated by the signature of the officer administering the oath or affirmation.

CHAPTER IV
CONDITIONS OF SERVICE

18. Tenure of service under the Act.—Every person subject to this Act shall hold office during the pleasure of the President.

19. Termination of service by Central Government.— Subject to the provisions of this Act and the rules and regulations made thereunder, the Central Government may dismiss or remove from the service, any person subject to this Act.

20. Dismissal, removal or reduction by the (Chief of the Army Staff)1 and by other officers.—(1) The (Chief of the Army Staff)1 may dismiss or remove from the service any person subject to this Act other than an officer.
(2) The Chief of the Army Staff may reduce to a lower grade or rank or the ranks, any warrant officer or any non-commissioned officer.

(3) An officer having power not less than a brigade or equivalent commander or any prescribed officer may dismiss or remove from the service any person serving under his command other than an officer or a junior commissioned officer.

(4) Any such officer as is mentioned in sub-section (3) may reduce to a lower grade or rank or the ranks, any warrant officer or any non-commissioned officer under his command.

(5) A warrant officer reduced to the ranks under this section shall not, however, be required to serve in the ranks as a sepoy.

(6) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer, or if he has no permanent grade above the ranks, to the ranks.

(7) The exercise of any power under this section shall be subject to the said provisions contained in this Act and the rules and regulations made thereunder.

21. Power to modify certain fundamental rights in their application to persons subject to this act.—Subject to the provisions of any law for the time being in force relating to the regular Army or to any branch thereof, the Central Government may, by notification, make rules restricting to such extent and in such manner as may be necessary the right of any person subject to this Act—

(a) to be a member of, or to be associated in any way with, any trade union or labour union, or any class of trade or labour unions or any society, institution or association, or any class of societies, institutions or associations;

(b) to attend or address any meeting or to take part in any demonstration organised by any body of persons for any political or other purposes;

(c) to communicate with the press or to publish or cause to be published any book, letter or other document.

22. Retirement, release or discharge.—Any person subject to this Act may be retired, released or discharged from the service by such authority and in such manner as may be prescribed.

23. Certificate on termination of service.—Every junior commissioned officer, warrant officer, or enrolled person who is dismissed, removed, discharged, retired or released from the service shall be furnished by his commanding officer with a certificate, in the language which is the mother tongue of such person and also in the English language setting forth—

(a) the authority terminating his service;

(b) the cause for such termination; and

(c) the full period of his service in the regular Army.
24. **Discharge or dismissal when out of India.**—(1) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India, with all convenient speed.

(2) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed.

(3) When any such person as is mentioned in sub-section (2) is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of imprisonment for life or imprisonment, a portion of such sentence may be inflicted before he is sent to India.

(4) For the purposes of this section, the word “discharge” shall include release, and the word “dismissal” shall include removal.

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**CHAPTER V**

**SERVICE PRIVILEGES**

25. **Authorised deductions only to be made from pay.**—The pay of every person subject to this Act due to him as such under any regulation for the time being in force shall be paid without any deduction other than the deductions authorised by or under this or any other act.

26. **Remedy of aggrieved persons other than officers.**—(1) Any person subject to this Act other than an officer who deems himself wronged by any superior or other officer may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

(2) When the officer complained against is the officer to whom any complaint should, under, sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or, when necessary, refer the complaint to superior authority.

(4) Every such complaint shall be preferred in such manner as may from time to time be specified by the proper authority.
(5) The Central Government may revise any decision by the (Chief of the Army Staff under sub-section (2), but, subject thereto, the decision of the Chief of the Army Staff) shall be final.

27. **Remedy of aggrieved officers.**—Any officer who deems himself wronged by his commanding officer or any superior officer and who on due application made to his commanding officer does not receive the redress to which he considers himself entitled, may complain to the Central Government in such manner as may from time to time be specified by the proper authority.

28. **Immunity from attachment.**—Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue officer in satisfaction of any decree or order enforceable against him.

29. **Immunity from arrest for debt.**—(1) No person subject to this Act shall, so long as he belongs to the Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue officer.

(2) The judge of any such court or the said officer may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no court-fee shall be payable by the complainant.

30. **Immunity of persons attending courts-martial from arrest.**—(1) No presiding officer or member of a court-martial, no judge-advocate, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial shall, while proceeding to, attending, or returning from, a court-martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

31. **Privileges of reservists.**—Every person belonging to the Indian Reserve Forces shall, when called out for or engaged in or returning from, training or service, be entitled to all the privileges accorded by sections 28 and 29 to a person subject to this Act.

32. **Priority in respect of army personnel's litigation.**—(1) On the presentation to any court by or on behalf of any person subject to this Act of a certificate from the
proper military authority of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for its inability to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall at once be referred by the court to an officer having power not less than a brigade or equivalent commander whose decision shall be final.

33. Saving of rights and privileges under other laws.—The rights and privileges specified in the preceding sections of this Chapter shall be in addition to, and not in derogation of, any other rights and privileges conferred on persons subject to this Act or on members of the regular Army, Navy and Air Force generally by any other law for the time being in force.

CHAPTER VI
OFFENCES

34. Offences in relation to the enemy and punishable with death.—Any person subject to this Act who commits any of the following offences; that is to say,—

(a) shamefully abandons or delivers up any garrison, fortress, post, place or guard, committed to his charge, or which it is his duty to defend, or uses any means to compel or induce any commanding officer or other person to commit any of the said acts; or
(b) intentionally uses any means to compel or induce any person subject to military, naval or air force law to abstain from acting against the enemy, or to discourage such person from acting against the enemy; or
(c) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or
(d) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the Union; or
(e) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies; or
(f) treacherously or through cowardice sends a flag of truce to the enemy; or
(g) in time of war or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or
(h) in time of action leaves his commanding officer or his post, guard, picquet, patrol or party without being regularly relieved or without leave; or
(i) having been made a prisoner of war, voluntarily serves with, or aids the enemy; or
(j) knowingly harbours or protects an enemy not being a prisoner; or
(k) being a sentry in time of war or alarm, sleeps upon his post or is intoxicated; or
(l) knowingly does any act calculated to imperil the success of the military, naval or air forces of India or any forces co-operating therewith or any part of such forces; shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

35. Offences in relation to the enemy and not punishable with death.—Any person subject to this Act who commits any of the following offences, that is to say,—
(a) is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner, fails to rejoin his service when able to do so; or
(b) without due authority holds correspondence with or communicates intelligence to the enemy or having come by the knowledge, of any such correspondence or communication, wilfully omits to discover it immediately to his commanding or other superior officer; or
(c) without due authority sends a flag of truce to the enemy; shall, on conviction by court-martial be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.
36. **Offences punishable more severely on active service than at other times**.— Any person subject to this Act who commits any of the following offences, that is to say,—

(a) forces a safeguard, or forces or uses criminal force to a sentry; or
(b) breaks into any house or other place in search of plunder; or
(c) being a sentry sleeps upon his post, or is intoxicated; or
(d) without orders from his superior officer leaves his guard, picquet patrol or post; or
(e) intentionally or through neglect occasions a false alarm in camp, garrison, or quarters or spreads reports calculated to create unnecessary alarm or despondency; or
(f) makes known the parole, watchword or countersign to any person not entitled to receive it; or knowingly gives a parole, watchword or countersign different from what he received;

shall, on conviction by court-martial, if he commits any such offence when on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if he commits any such offence when not on active service, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

37. **Mutiny**.— Any person subject to this Act who commits any of the following offences, that is to say,—

(a) begins, incites, causes, or conspires with any other persons to cause any mutiny in the military, naval or air forces of India or any forces co-operating therewith; or
(b) joins in any such mutiny; or
(c) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or
(d) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his commanding or other superior officer; or
(e) endeavours to seduce any person in the military, naval or air forces of India from his duty or allegiance to the Union;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

38. **Desertion and aiding desertion**.—(1) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court-martial, if he commits the offence on active service or when under orders for active service, be liable to suffer death or such less punishment as is in this Act mentioned; and if he
commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who, knowingly harbours any such deserter shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(3) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other, superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction, by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

39. Absence without leave.— Any person subject to this Act who commits any of the following offences, that is to say,—
(a) absents himself without leave; or
(b) without sufficient cause overstays leave granted to him; or
(c) being on leave of absence and having received information from proper authority that any corps, or portion of a corps, or any department, to which he belongs, has been ordered on active service, fails, without sufficient cause, to rejoin without delay; or
(d) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or
(e) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or
(f) when in camp or garrison or elsewhere, is found beyond any limits fixed, or in any place, prohibited by any general, local or other order, without a pass or written leave from his superior officer; or
(g) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there;
shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

40. Striking or threatening superior officers.—Any person subject to this Act who commits any of the following offences, that is to say,—
(a) uses criminal force to or assaults his superior officer; or
(b) uses threatening language to such officer; or
(c) uses insubordinate language to such officer;
shall on conviction by court-martial, if such officer is at the time in the execution of his office or, if the offence is committed on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned;

Provided that in the case of an offence specified in clause (c), the imprisonment shall not exceed five years.

41. Disobedience to superior officer.—(1) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally or in writing or by signal or otherwise shall, on conviction by court-martial be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by court-martial, if he commits such offence when on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if he commits such offence when not on active service, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

42. Insubordination and obstruction.—Any person subject to this Act who commits any of the following offences, that is to say,

(a) being concerned in any quarrel, affray, or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(b) uses criminal force to or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(c) resists an escort whose duty it is to apprehend him or to have him in charge; or

(d) breaks out of barracks, camp or quarters; or

(e) neglects to obey any general, local or other order; or

(f) impedes the provost-marshal or any person lawfully acting on his behalf or when called upon, refuses to assist in the execution of his duty a provost-marshal or any person lawfully acting on his behalf; or

(g) uses criminal force to or assaults, any person bringing provisions or supplies to the forces:
shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (d) and (e) to two years, and in the case of the offences specified in the other clauses to ten years, or such less punishment as is in this Act mentioned.

43. Fraudulent enrolment.—Any person subject to this Act who commits any of the following offences, that is to say,—
(a) without having obtained a regular discharge from the corps or department to which he belongs, or otherwise fulfilled the conditions enabling him to enrol or enter, enrolls himself in, or enters the same or any other corps or department or any part of the naval or air forces of India or the Territorial Army; or
(b) is concerned in the enrolment in any part of the Forces of any person when he knows or has reason to believe such person to be so circumstanced that by enrolling he commits an offence against this Act;
shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

44. False answers on enrolment.—Any person having become subject to this Act who is discovered to have made at the time of enrolment a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

45. Unbecoming conduct.—Any officer, junior commissioned officer or warrant officer who behaves in a manner unbecoming his position and the character expected of him shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and, if he is a junior commissioned officer or a warrant officer, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

46. Certain forms of disgraceful conduct.—Any person subject to this Act who commits any of the following offences, that is to say,—
(a) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or
(b) malingers, or feigns, or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or
(c) with intent to render himself or any other person unfit for service voluntarily causes hurt to himself or that person;
shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.
47. **Ill-treating a subordinate.**—Any officer, junior commissioned officer, warrant officer or non-commissioned officer who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

48. **Intoxication.**—(l) Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and, if he is not an officer, be liable, subject to the provisions of sub-section (2), to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(2) Where an offence of being intoxicated is committed by a person other than an officer when not on active service or not on duty, the period of imprisonment awarded shall not exceed six months.

49. **Permitting escape of person in custody.**—Any person subject to this Act who commits any of the following offences, that is to say—

(a) when in command of a guard, picquet, patrol or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; 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, on conviction by court-martial, be liable, if he has acted wilfully to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if he has not acted wilfully to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

50. **Irregularity in connection with arrest or confinement.**—Any person subject to this Act who commits any of the following offences, that is to say,—

(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 military custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged;

shall on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.
51. Escape from Custody.—Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

52. Offences in respect of property.—Any person subject to this Act who commits any of the following offences, that is to say,—
(a) commits theft of any property belonging to the Government, or to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law; or
(b) dishonestly misappropriates or converts to his own use any such property; or
(c) commits criminal breach of trust in respect of any such property; or
(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reason to believe the commission of such offence; or
(e) wilfully destroys or injures any property of the Government entrusted to him; or
(f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person;
shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

53. Extortion and Corruption.—Any person subject to this Act who commits any of the following offences, that is to say,—
(a) commits extortion; or
(b) without proper authority exacts from any person money, provisions or service;
shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

54. Making away with equipment.—Any person subject to this Act who commits any of the following offences, that is to say,—
(a) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or
(b) loses by neglect anything mentioned in clause (a); or
(c) sells, pawns, destroys or defaces any medal or decoration granted to him;
shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend in the case of the offences specified in clause (a) to ten years, and in the case of the offences specified in the other clauses to five years, or such less punishment as is in this Act mentioned.

55. Injury to property.—Any person subject to this Act who commits any of the following offences, that is to say,—
(a) destroys or injures any property mentioned in clause (a) of section 54 or any property belonging to any military, naval or air force, mess band or institution, or to any person subject to military, naval or air force law, or serving with or attached to, the regular Army; or
(b) commits any act which causes damage to, or destruction of, any property of the Government by fire; or
(c) kills, injures, makes away with, ill-treats or loses any animal entrusted to him;
shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

56. False accusations.—Any person subject to this Act who commits any of the following offences, that is to say,—
(a) makes a false accusation against any person subject to this Act knowing or having reason to believe such accusation to be false; or
(b) in making a complaint under section 26 or section 27 makes any statement affecting the character of any person subject to this Act, knowing or having reason to believe such statement to be false or knowingly and wilfully suppresses any material facts;
shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

57. Falsifying official documents and false declarations.—Any person subject to this Act who commits any of the following offences, that is to say—
(a) in any report, return, list, certificate, book 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 any false or fraudulent statement; or
(b) in any document of the description mentioned in clause (a) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or
(c) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or
(d) where it is his official duty to make a declaration respecting any matter knowingly makes a false declaration; or
(e) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry
in any book or record or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement; shall, on conviction by court-martial be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

58. Signing in blank and failure to report.—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores, or any property of the Government fraudulently leaves in blank any material part for which his signature is a voucher; 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, on conviction by court-martial be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

59. Offences relating to court-martial.—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being duly summoned or ordered to attend as a witness before a court-martial, wilfully or without reasonable excuse, makes default in attending; or

(b) refuses to take an oath or make an affirmation legally required by a court-martial to be taken or made; or

(c) refuses to produce or deliver any document in his power or control legally required by a court-martial to be produced or delivered by him; or

(d) refuses when a witness to answer any question which he is by law bound to answer; or

(e) is guilty of contempt of court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

60. False evidence.—Any person subject to this Act who, having been duly sworn or affirmed before any court-martial or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

61. Unlawful detention of pay.—Any officer, junior commissioned officer, warrant officer or non-commissioned officer who, having received the pay of a person subject
to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by court martial, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

**62. Offences in relation to aircraft and flying.**—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) wilfully or without reasonable excuse damages, destroys or loses any aircraft or aircraft material belonging to the Government; or

(b) is guilty of any act or neglect likely to cause such damage, destruction or loss; or

(c) without lawful authority disposes of any aircraft or aircraft material belonging to the Government; or

(d) is guilty of any act or neglect in flying, or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person; or

(e) during a state of war, wilfully and without proper occasion, or negligently, causes the sequestration, by or under the authority of a neutral State, or the destruction in a neutral State of any aircraft belonging to the Government; shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned, and, in any other case, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

**63. Violation of good order and discipline.**—Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and military discipline shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

**64. Miscellaneous offences.**—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(b) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person; or

(c) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or
(d) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazar, carrying a rifle, sword or other offensive weapon; or

(e) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(f) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

65. Attempt.—Any person subject to this Act who attempts to commit any of the offences specified in sections 34 to 64 inclusive and in such attempt does any act towards the commission of the offence shall, on conviction by court-martial, where no express provision is made by this Act for the punishment of such attempt, be liable, if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

66. Abetment of offences that have been committed.—Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 64 inclusive shall, on conviction by court-martial, if the act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

67. Abetment of offences punishable with death and not committed.—Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 34, 37 and sub-section (1) of section 38 shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

68. Abetment of offences punishable with imprisonment and not committed.—Any person subject to this Act who abets the commission of any of the offences
specified in section 34 to 64 inclusive and punishable with imprisonment shall, on conviction by court martial, if that offence is not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this act mentioned.

69. Civil offences.—Subject to the provisions of section 70, any person subject to this Act who at any place in or beyond India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section, shall be liable to be tried by a court-martial and, on conviction, be punishable as follows, that is to say,—

(a) if the offence is one which would be punishable under any law in force in India with death or with imprisonment for life1, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the aforesaid law and such less punishment as is in this Act mentioned;

(b) in any other case, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

70. Civil offences not triable by court-martial.—A person subject to this Act who commits an offence of murder against a person not subject to military, naval or air force law, or of culpable homicide not amounting to murder against such a person or of rape in relation to such a person, shall not be deemed to be guilty of an offence against this Act and shall not be tried by a court-martial unless he commits any of the said offences—

(a) while on active service, or

(b) at any place outside India, or

(c) at a frontier post specified by the Central Government by notification in this behalf.

CHAPTER VII

PUNISHMENTS

71. Punishment awardable by courts-martial.—Punishment may be inflicted in respect of offences committed by person subject to this Act and convicted by court-martial, according to the scale following, that is to say,—

(a) death;

(b) (imprisonment for life)1 ;
(c) imprisonment, either rigorous or simple, for any period not exceeding fourteen years;
(d) cashiering, in the case of officers;
(e) dismissal from the service;
(f) reduction to the ranks or to a lower rank or grade or place in the list of their rank, in the case of warrant officers; and reduction to the ranks or to a lower rank or grade, in the case of non-commissioned officers:
Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy;
(g) forfeiture of seniority of rank, in the case of officers, junior commissioned officers, warrant officers and non-commissioned officers; and forfeiture of all or any part of their service for the purpose of promotion, in the case of any of them whose promotion depends upon length of service;
(h) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;
(i) severe reprimand or reprimand, in the case of officers, junior commissioned officers, warrant officers and non-commissioned officers;
(j) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active service;
(k) forfeiture in the case of a person sentenced to cashiering or dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such cashiering or dismissal;
(l) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

72. **Alternative punishments awardable by court-martial**—Subject to the provisions of this Act, a court-martial may, on convicting a person subject to this Act of the offences specified in sections 34 to 68 inclusive, award either the particular punishment with which the offence is stated in the said sections to be punishable, or, in lieu thereof, any one of the punishments lower in the scale set out in section 71, regard being had to the nature and degree of the offence.

73. **Combination of punishments**.—A sentence of a court-martial may award in addition to, or without any one other punishment the punishment specified in clause (d) or clause (e) of section 71 and any one or more of the punishments specified in clauses (f) to (l) of that section.

74. **Cashiering of Officers**.—An officer shall be sentenced to be cashiered before he is awarded any of the punishments specified in clauses (a) to (c) of section 71.

75. [Omitted]

76. [Omitted]
77. Result of certain punishments in the case of a warrant officer or non-commissioned officer.—A warrant officer or a non-commissioned officer sentenced by a court-martial to imprisonment for life, imprisonment, or dismissal from the service, shall be deemed to be reduced to the ranks.

78. Retention in the ranks of a person convicted on active service.—When on active service, any enrolled person has been sentenced by a court-martial to dismissal, or to (imprisonment for life)2 or imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and such service shall be reckoned as part of his term of (imprisonment for life)2 or imprisonment, if any.

79. Punishments otherwise than by court-martial.—Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a court-martial and in the manner stated in sections 80, 83, 84 and 85.

80. Punishments of persons other than officers, junior commissioned officers and warrant officers.—Subject to the provisions of section 81, a commanding officer or such other officer as is, with the consent of the Central Government specified by the Chief of the Army Staff, may, in the prescribed manner proceed against a person subject to this Act otherwise than as an officer, junior commissioned officer or warrant officer who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

(a) imprisonment in military custody up to twenty-eight days;
(b) detention up to twenty-eight days;
(c) confinement to the lines up to twenty-eight days;
(d) extra guards or duties;
(e) deprivation of a position of the nature of an appointment or of corps or working pay, and in the case of non-commissioned officers, also deprivation of acting rank or reduction to a lower grade of pay;
(f) forfeiture of good service and good conduct pay;
(g) severe reprimand or reprimand;
(h) fine up to fourteen days’ pay in any one month;
(i) penal deductions under clause (g) of section 91;
(j) Omitted.

81. Limit of punishments under section 80.—(1)—Omitted.
(2) In the case of an award of two or more of the punishments specified in clauses (a), (b), (c) and (d) of the said section, the punishment specified in clause (c) or
clause (d) shall take effect only at the end of the punishment specified in clause (a) or clause (b).

(3) When two or more of the punishments specified in the said clauses (a), (b) and (c) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty two days.

(4) The punishments specified in clauses [(a), (b), and (c)2 of section 80 shall not be awarded to any person who is of the rank of non-commissioned officer or was, at the time of committing the offence for which he is punished, of such rank.

(5) The punishment specified in clause (g) of the said section shall not be awarded to any person below the rank of a non-commissioned officer.

82. Punishments in addition to those specified in section 80.—The Chief of Army Staff may, with the consent of the Central Government, specify such other punishments as may be awarded under section 80 in addition to or without any of the punishments specified in the said section, and the extent to which such other punishments may be awarded.

83. Punishment of officers, junior commissioned officers and warrant officers by brigade commanders and others.—An officer having power not less than a brigade, or an equivalent commander or such other officer as is, with the consent of the Central Government, specified by the Chief of Army Staff1 may, in the prescribed manner, proceed against an officer below the rank of a field officer, a junior commissioned officer or a warrant officer, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(a) severe reprimand or reprimand;
(b) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

84. Punishment of officers, junior commissioned officers and warrant officers by area commanders and others.—An officer having power not less than an area commander or an equivalent commander or an officer empowered to convene a general court-martial or such other officer as is, with the consent of the Central Government, specified by the Chief of the Army Staff1 may, in the prescribed manner proceed against an officer below the rank of lieutenant colonel, a junior commissioned officer or a warrant officer, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say.—

(a) forfeiture of seniority, or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by a court-martial;
(b) severe reprimand or reprimand;
(c) stoppage of pay and allowances until any proved loss or damage occasioned by
the offence of which he is convicted is made good.

**85. Punishment of junior commissioned officers.**—A commanding officer or such
other officer as is, with the consent of the Central Government specified by the Chief
of the Army Staff may, in the prescribed manner, proceed against a junior
commissioned officer who is charged with an offence under this Act and award one
or more of the following punishments, that is to say,—

(i) severe reprimand or reprimand;
(ii) stoppage of pay and allowances until any proved loss or damage occasioned by
the offence of which he is convicted is made good:

Provided that the punishment specified in clause (i) shall not be awarded
if the commanding officer or such other officer is below the rank of Colonel.

**86. Transmission of proceedings.**—In every case in which punishment has been
awarded under any of the sections 83, 84 and 85, certified true copies of the
proceedings shall be forwarded, in the prescribed manner, by the officer awarding
the punishment, to a superior military authority as defined in section 88.

**87. Review of Proceedings.**—If any punishment awarded under any of the
sections 83, 84 and 85 appears to a superior military authority as defined in section
88 to be illegal, unjust or excessive, such authority may cancel, vary or remit the
punishment and make such other direction as may be appropriate in the
circumstances of the case.

**88. Superior Military Authority.**—For the purpose of sections 86 and 87, a
“superior military authority” means—

(a) in the case of punishments awarded by a commanding officer, any officer
superior in command to such commanding officer;

(b) in the case of punishments awarded by any other authority, the Central
Government, the Chief of Army Staff or other officer specified by the Chief of the
Army Staff.

**89. Collective fines.**—(l) Whenever any weapon or part of a weapon forming part
of the equipment of a half squadron, battery, company or other similar unit is lost or
stolen, the officer commanding the army, army corps, division or independent
brigade to which such units belongs may, after obtaining the report of a court of
inquiry impose a collective fine upon the junior commissioned officers, warrant
officers, non-commissioned officers and

men of such unit, or upon so many of them as, in his judgement, should be held
responsible for such loss or theft.
(2) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

CHAPTER VIII
PENAL DEDUCTIONS

90. Deduction from pay and allowances of officers.—The following penal deductions may be made from the pay and allowances of an officer, that is to say.—
(a) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to his commanding officer and has been approved by the Central Government;
(b) all pay and allowances for every day while he is in custody or under suspension from duty on a charge for an offence for which he is afterwards convicted by a criminal court or a court-martial or by an officer exercising authority under section 83 or section 84;
(c) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;
(d) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by the court-martial by whom he is convicted of such offence, or by an officer exercising authority under section 83 or section 84;
(e) all pay and allowances ordered by a court martial to be forfeited or stopped;
(f) any sum required to pay a fine awarded by a criminal court or a court-martial exercising jurisdiction under section 69;
(g) any sum required to make good any loss, damage, or destruction of public or regimental property which, after due investigation, appears to the Central Government to have been occasioned by the wrongful act or negligence on the part of the officer;
(h) all pay and allowances forfeited by order of the Central Government if the officer is found by a court of inquiry constituted by the Chief of the Army Staff in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of the enemy, or in any manner to have aided the enemy, or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;
(i) any sum required by order of the Central Government, or any prescribed officer to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.
91. Deduction from pay and allowances of persons other than officers.— Subject to the provisions of section 94 the following penal deductions may be made from the pay and allowances of a person subject to this Act other than an officer, that is to say,—

(a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment for life or imprisonment awarded by a criminal court, a court-martial or an officer exercising authority under section 80;

(b) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or a court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment by an officer exercising authority under section 80;

(c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(d) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Central Government or such officer as may be specified by that Government;

(e) all pay and allowances ordered by a court-martial or by an officer exercising authority under any of the sections 80, 83, 84 and 85, to be forfeited or stopped;

(f) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of, the enemy;

(g) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property as may be awarded by his commanding officer;

(h) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 69, or an officer exercising authority under any of the sections 80 and 89;

(i) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

92. Computation of time of absence or custody.— For the purposes of clauses (a) and (b) of section 91,—

(a) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another, for six consecutive hours or upwards;
(b) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person;

c) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

d) a period of absence or imprisonment, which commences before, and ends after, midnight may be reckoned as a day.

93. Pay and allowances during trial.—In the case of any person subject to this Act who is in custody or under suspension from duty on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowance of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (b) of sections 90 and 91.

94. Limit of certain deductions.—The total deductions from the pay and allowances of a person made under clauses (e), (g) to (i) of section 91 shall not, except where he is sentenced to dismissal, exceed in any one month one-half of his pay and allowances for that month.

95. Deduction from public money due to a person.—Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

96. Pay and allowances of prisoner of war during inquiry into his conduct.—Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of, the enemy, is to be inquired into under this Act or any other law, the Chief of the Army Staff or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.

97. Remission of Deductions.—Any deduction from pay and allowances authorized by this Act may be remitted in such manner and to such extent, and by such authority, as may from time to time be prescribed.

98. Provision for dependents of prisoner of war from remitted deductions.—In the case of all persons subject to this Act being prisoners of war, whose pay and allowances have been forfeited under clause (h) of section 90 or clause (a) of section 91, but in respect of whom a remission has been made under section 97, it shall be lawful for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependents of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.
99. **Provision for dependants of prisoner of war from his pay and allowances.**— It shall be lawful for proper provision to be made by the prescribed authorities for any dependants of any person subject to this Act who is a prisoner of war or is missing, out of his pay and allowances.

100. **Period during which a person is deemed to be a prisoner of war.**— For the purposes of sections 98 and 99, a person shall be deemed to continue to be a prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 96, and if he is cashiered or dismissed from the service in consequence of such conduct, until the date of such cashiering or dismissal.

**CHAPTER IX**

**ARREST AND PROCEEDINGS BEFORE TRIAL**

101. **Custody of offenders.**—(1) Any person subject to this Act who is charged with an offence may be taken into military custody.

(2) Any such person may be ordered into military custody by any superior officer.

(3) An officer may order into military custody any officer, though he may be of a higher rank engaged in a quarrel, affray or disorder.

102. **Duty of commanding officer in regard to detention.**—(1) It shall be the duty of every commanding officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

(2) The case of every person being detained in custody beyond a period of forty-eight hours, and the reason thereof shall be reported by the commanding officer to the general or other officer to whom application would be made to convene a general or district court martial for the trial of the person charged.

(3) In reckoning the period of forty-eight hours specified in sub-section (1), Sundays and other public holidays shall be excluded.

(4) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in military custody, pending the trial by any competent authority for any offence committed by him.

103. **Interval between committal and court-martial.**—In every case where any such person as is mentioned in section 101 and is not on active service remains in such custody for a longer period than eight days, without a court-martial for his trial being ordered to assemble, a special report giving reasons for the delay shall be
made by his commanding officer in the manner prescribed, and a similar report shall be forwarded at intervals of every eight days until a court-martial is assembled or such person is released from custody.

104. Arrest by civil authorities.—Whenever any person subject to this Act who is accused of any offence under this Act, is within the jurisdiction of any magistrate or police officer, such magistrate, or police officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

105. Capture of deserters.—(1) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs, shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, into military custody.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

106. Inquiry into absence without leave.—(1) When any person subject to this Act has been absent from his duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be assembled, and such court shall, on oath or affirmation administered in the prescribed manner inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any, and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

107. Provost-marshal.—(1) Provost-marshal may be appointed by the Chief of the Army staff or by any prescribed officer.

(2) The duties of a provost-marshal are to take charge of persons confined for any offence, to preserve good order and discipline, and to prevent breaches of the same by persons serving in, or attached to, the regular Army.
(3) A provost-marshal may at any time arrest and detain for trial any person subject to this Act who commits, or is charged with, an offence and may also carry into effect any punishment to be inflicted in pursuance of the sentence awarded by a court-martial, or by an officer exercising authority under section 80 but shall not inflict any punishment on his own authority:
Provided that no officer shall be so arrested or detained otherwise than on the order of another officer.

(4) For the purposes of sub-sections (2) and (3), a provost-marshal shall be deemed to include a provost-marshal appointed under any law for the time being in force relating to the governance of the Navy or Air Force, and any person legally exercising authority under him or on his behalf.

CHAPTER X
COURTS-MARTIAL

108. Kinds of courts-martial.—For the purposes of this Act there shall be four kinds of courts-martial, that is to say,—
(a) general courts-martial;
(b) district courts-martial;
(c) summary general courts-martial; and
(d) summary courts-martial.

109. Power to convene a general court-martial.—A general court-martial may be convened by the Central Government or the Chief of the Army Staff or by any officer empowered in this behalf by warrant of the Chief of the Army Staff.

110. Power to convene a district court-martial.—A district court-martial may be convened by an officer having power to convene a general court-martial or by any officer empowered in this behalf by warrant of any such officer.

111. Contents of warrants issued under sections 109 and 110.—A warrant issued under section 109 or section 110 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

112. Power to convene a summary general court-martial.—The following authorities shall have power to convene a summary general court-martial namely—
(a) an officer empowered in this behalf by an order of the Central Government or of the Chief of the Army Staff;
(b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;
(c) an officer commanding any detached portion of the regular Army on active service when, in his opinion, it is not practicable, with due regard to discipline and
the exigencies of the service, that an offence should be tried by a general court-martial.

113. Composition of general court-martial.—A general court-martial shall consist of not less than five officers, each of whom has held a commission for not less than three whole years and of whom not less than four are of a rank not below that of captain.

114. Composition of district court-martial.—A district court-martial shall consist of not less than three officers, each of whom has held a commission for not less than two whole years.

115. Composition of summary general court-martial.—A summary general court martial shall consist of not less than three officers.

116. Summary court-martial.—(1) A summary court-martial may be held by the commanding officer of any corps, department or detachment of the regular Army, and he shall alone constitute the court.

(2) The proceedings shall be attended throughout by two other persons who shall be officers or junior commissioned officers or one of either, and who shall not as such be sworn or affirmed.

117. Dissolution of courts-martial.—(1) If a court-martial after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(2) If, on account of illness of the judge advocate or of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) The officer who convened a court-martial may dissolve such court martial if it appears to him that military exigencies or the necessities of discipline render it impossible or inexpedient to continue the said court-martial.

(4) Where a court-martial is dissolved under this section, the accused may be tried again.

118. Powers of general and summary general courts-martial.—A general or summary general court-martial shall have power to try any person subject to this Act for any offence punishable therein and to pass any sentence authorised thereby.

119. Power of district courts-martial.—A district court-martial shall have power to try any person subject to this Act other than an officer or a junior commissioned officer for any offence made punishable therein, and to pass any sentence authorised by this Act other than a sentence of death, imprisonment for life, or imprisonment for a term exceeding two years;

Provided that a district court-martial shall not sentence a warrant officer to imprisonment.
120. **Powers of summary courts-martial.**—(1) Subject to the provisions of subsection (2), a summary court-martial may try any offence punishable under this Act.

(2) When there is no grave reason for immediate action and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial or on active service a summary general court-martial for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any offence punishable under any of the sections 34, 37 and 69, or any offence against the officer holding the court.

(3) A summary court-martial may try any person subject to this Act and under the command of the officer holding the court, except an officer, Junior commissioned officer or warrant officer.

(4) A summary court-martial may pass any sentence which may be passed under this Act, except a sentence of death or (imprisonment for life) or of imprisonment for a term exceeding the limit specified in sub-section (5).

(5) The limit referred to in sub-section (4) shall be one year if the officer holding the summary court-martial is of the rank of lieutenant-colonel and upwards, and three months if such officer is below that rank.

121. **Prohibition of second trial.**—When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been dealt with under any of the sections 80, 83, 84 and 85, he shall not be liable to be tried again for the same offence by a court-martial or dealt with under the said sections.

122. **Period of limitation for trial.**—(l) Except as provided by sub-section (2), no trial by court-martial of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years and [such period shall commence,—

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to the authority competent to initiate action, the first day on which such offence comes to the knowledge of such person or authority, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the authority competent to initiate action, whichever is earlier.

(2) The provisions of sub-section (1) shall not apply to a trial for an offence of desertion or fraudulent enrolment or for any of the offences mentioned in section 37.
(3) In the computation of the period of time mentioned in sub-section (1), any time spent by such person as a prisoner of war, or in enemy territory, or in evading arrest after the commission of the offence, shall be excluded.

(4) No trial for an offence of desertion other than desertion on active service or of fraudulent enrolment shall be commenced if the person in question, not being an officer, has subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of the regular Army.

123. Liability of offender who ceases to be subject to Act.—(1) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in military custody, and tried and punished for such offence as if he continued to be so subject.

(2) No such person shall be tried for an offence, unless his trial commences within a period of three years after he had ceased to be subject to this Act; and in computing such period, the time during which such person has avoided arrest by absconding or concealing himself or where the institution of the proceeding in respect of the offence has been stayed by an injunction or order, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or fraudulent enrolment or for any of the offences mentioned in section 37 or shall affect the jurisdiction of a criminal court to try any offence triable by such court as well as by a court martial.

(3) When a person subject to this Act is sentenced by a court-martial to imprisonment for life or imprisonment, this Act shall apply to him during the term of his sentence, though he is cashiered or dismissed from the regular Army, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(4) When a person subject to this Act is sentenced by a court-martial to death, this Act shall apply to him till the sentence is carried out.

124. Place of trial.—Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

125. Choice between criminal court and court-martial.—When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the officer commanding the army, army corps, division or independent brigade in which the accused person is serving or such other officer as may be prescribed to decide before which court the proceedings shall be instituted, and if
that officer decides that they should be instituted before a court-martial, to direct
that the accused person shall be detained in military custody.

126. Power of criminal court to require delivery of offender.—(1) When a
criminal court having jurisdiction is of opinion that proceedings shall be instituted
before itself in respect of any alleged offence, it may, by written notice require the
officer referred to in section 125 at his option, either to deliver over the offender to
the nearest magistrate to be proceeded against according to law, or to postpone
proceedings pending a reference to the Central Government.

(2) In every such case the said officer shall either deliver over the offender in
compliance with the requisition, or shall forthwith refer the question as to the court
before which the proceedings are to be instituted for the determination of the
Central Government, whose order upon such reference shall be final.

CHAPTER XI
PROCEDURE OF COURTS-MARTIAL

128. Presiding officer.—At every general, district or summary general court-
martial the senior member shall be the presiding officer.

129. Judge Advocate.—Every general court-martial shall, and every district or
summary general court-martial may be attended by a judge advocate, who shall be
either an officer belonging to the department of the Judge Advocate General or if no
such officer is available, any person approved of by the Judge Advocate General or
any of his deputies.

130. Challenges.—(1) At all trials by general, district or summary general court
martial, as soon as the court is assembled, the names of the presiding officer and
members shall be read over to the accused, who shall thereupon be asked whether
he objects to being tried by any officer sitting on the court.

(2) If the accused objects to any such officer, his objection, and also the reply
thereto of the officer objected to, shall be heard and recorded and the remaining
officers of the court shall, in the absence of the challenged officer decide on the
objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled
to vote, the objection shall be allowed, and the member objected to shall retire, and
his vacancy may be filled in the prescribed manner by another officer, subject to the
same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed,
or the place of every officer successfully challenged has been filled by another officer
to whom no objection is made or allowed, the court shall proceed with the trial.
131. Oaths of member, judge advocate and witness.—(1) An oath or affirmation in the prescribed manner shall be administered to every member of every court-martial and to the judge advocate before the commencement of the trial.

(2) Every person giving evidence before a court-martial shall be examined after being duly sworn or affirmed in the prescribed form.

(3) The provisions of sub-section (2) shall not apply where the witness is a child under twelve years of age and the court-martial is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

132. Voting by members.—(1) Subject to the provision of sub-section (2) and (3), every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(2) No sentence of death shall be passed by a general court-martial without the concurrence of at least two-thirds of the members of the court.

(3) No sentence of death shall be passed by a summary general court-martial without the concurrence of all the members.

(4) In matters, other than a challenge or the finding or sentence, the presiding officer shall have a casting vote.

133. General rule as to evidence.—The Indian evidence Act, 1872 (1 of 1872), shall, subject to the provisions of this Act, apply to all proceedings before a court-martial.

134. Judicial Notice.—A court-martial may take judicial notice of any matter within the general military knowledge of the members.

135. Summoning Witnesses.—(1) The convening officer, the presiding officer of a court-martial or courts of inquiry, the judge advocate or the commanding officer of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness amenable to military authority, the summons shall be sent to his commanding officer, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

136. Documents exempted from production.—(1) Nothing in section 135 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act,
1872 (1 of 1872), or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(2) If any document in such custody is, in the opinion of any district magistrate, chief presidency magistrate, High Court or Court of Sessions, wanted for the purpose of any court-martial, such magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate or Court may direct.

(3) If any such document is, in the opinion of any other magistrate or of any commissioner of police or district superintendent of police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such district magistrate, chief presidency magistrate or High Court or Court of Session.

137. Commissions for examination of witnesses.—

(1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Judge Advocate General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge Advocate General may then, if he thinks necessary, issue a commission to any district magistrate or magistrate of the first class, within the local limits of whose jurisdiction such witness resides to take the evidence of such witness.

(3) The magistrate or officer to whom the commission is issued, or if he is the district magistrate, he or such magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner and may for this purpose exercise the same powers, as in trials of warrant cases under the Code of Criminal Procedure, 1973 [2 of 1974] or any corresponding law in force in [the State of Jammu and Kashmir].

(4) When the witness resides in a tribal area or in any place outside India, the, commission may be issued in the manner specified in [Chapter XXII, of the Code of Criminal Procedure, 1973 [2 of 1974] or of any corresponding law in force in the State of Jammu and Kashmir.

(5) In this and the next succeeding section, the expression “Judge Advocate General” includes a Deputy Judge Advocate General.
138. Examination of a witness on commission.—(1) The prosecutor and the accused person in any case in which a commission is issued under section 137 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the magistrate or officer executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such magistrate or officer by counsel or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine as the case may be, the said witness.

(3) After a commission issued under section 137 has been duly executed, it shall be returned, together with the deposition of the witness examined there-under to the Judge Advocate General.

(4) On receipt of a commission and deposition returned under sub-section (3), the Judge Advocate General shall forward the same to the Court at whose instance the commission was issued, or if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(5) In every case in which a commission is issued under section 137, the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

139. Conviction of offence not charged.—(1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a court-martial with attempting to desert may be found guilty of being absent without leave.

(3) A person charged before a court-martial with using criminal force may be found guilty of assault.

(4) A person charged before a court-martial with using threatening language may be found guilty of using insubordinate language.

(5) A person charged before a court-martial with any one of the offences specified in clauses (a), (b), (c) and (d) of section 52 may be found guilty of any other of these offences with which he might have been charged.

(6) A person charged before a court-martial with an offence punishable under section 69 may be found guilty of any other offence of which he might have been
found guilty as if the provisions of the Code of Criminal Procedure, 1973 (2 of 1974)1, were applicable.

(7) A person charged before a court-martial with any offence under this Act, may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(8) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

140. Presumption as to signatures.—In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

141. Enrolment paper.—(1) Any enrolment paper purporting to be signed by an enrolling officer shall in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

(2) The enrolment of such person may be proved by the production of the original or a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

142. Presumption as to certain documents.—(1) A letter, return or other document respecting the service of any person in, or the cashiering, dismissal or discharge of any person, from any portion of the regular Army, or respecting the circumstances of any person not having served in, or belonged to any portion of the Forces, if purporting to be signed by or on behalf of the Central Government or the (Chief of the Army Staff)1, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(2) An Army, Navy or Air Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers, junior commissioned officers or warrant officers therein mentioned, and of any appointment held by them and of the corps, battalion or arm or branch of the services to which they belong.

(3) Where a record is made in any regimental book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance 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 therein stated.
(4) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any portion of the regular Army, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the commanding officer of that portion of the regular Army, or by the commanding officer of the corps, department or detachment to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be evidence of the matters so stated.

(6) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government [or any of the Government scientific experts, namely, the Chief Inspector of the Explosives, the Director of the Finger Print Bureau, the Director, Haffkeine Institute, Bombay, the Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory and the Serologist to the Government upon any matter or thing duly submitted to him for examination or analysis and report, may be used as evidence in any proceeding under this Act.

143. Reference by accused to Government officer.—(1) If at any trial for desertion or absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn the proceedings until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion annul the proceedings and order a fresh trial.
144. Evidence of previous convictions and general character.—(1) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of any previous convictions of such person either by a court-martial or by a criminal court, or any previous award of, punishment under any of the sections, 80, 83, 84 and 85, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

145. Lunacy of accused.—(1) Whenever, in the course of a trial by a court-martial, it appears to the court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the court shall record a finding accordingly.

(2) The presiding officer of the court, or, in the case of a summary court-martial the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its finding under section 162, as the case may be.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was charged.

(4) The authority to whom the finding of a summary court-martial is reported under sub-section (2), and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4) the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

146. Subsequent fitness of lunatic accused for trial.—Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 145, the officer
commanding the army, army corps, division or brigade within the area of whose
command the accused is in custody or is detained, or any other officer prescribed in
this behalf, may—
(a) if such person is in custody under sub-section (4) of section 145, on the report of
a medical officer that he is capable of making his defence, or
(b) if such person is detained in a jail under sub-section (5) of section 145, on a
certificate of the Inspector General of Prisons, and if such person is detained in a
lunatic asylum under the said sub-section on a certificate of any two or more of the
visitors of such asylum that he is capable of making his defence, take steps to have
such person tried by the same or another court-martial for the offence with which he
was originally charged or, if the offence is a civil offence, by a criminal court.

147. Transmission to Central Government of orders under section 146.—A
copy of every order made by an officer under section 146 for the trial of the accused
shall forthwith be sent to the Central Government.

148. Release of lunatic accused.—Where any person is in custody under
subsection(4) of section 145 or under detention under sub-section (5) of that section—
(a) if such person is in custody under the said sub-section (4), on the report of a
medical officer, or
(b) if such person is detained under the said sub-section (5), on a certificate from
any of the authorities mentioned in clause (b) of section 146 that in the judgment of
such officer or authority such person may be released without danger of his doing
injury to himself or to any other person, the Central Government may order that
such person be released or detained in custody, or transferred to a public lunatic
asylum if he has not already been sent to such an asylum.

149. Delivery of lunatic accused to relatives.—Where any relative or friend of
any person who is in custody under sub-section (4) of section 145 or under
detention under sub-section (5) of that section desires that he should be delivered to
his care and custody, the Central Government may upon application by such
relative or friend and on his giving security to the satisfaction of that Government
that the person delivered shall be properly taken care of and prevented from doing
injury to himself or any other person, and be produced for the inspection of such
officer, and at such times and places, as the Central Government may direct, order
such person to be delivered to such relative or friend.

150. Order for custody and disposal of property pending trial.—When any
property regarding which any offence appears to have been committed, or which
appears to have been used for the commission of any offence, is produced before a
court-martial during a trial, the court may make such order as it thinks fit for the
proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

151. Order for disposal of property regarding which offence is committed.— (1) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial, or any authority superior to such officer, or, in the case of court-martial whose finding or sentence does not require confirmation, the officer commanding the army, army corps, division or brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a magistrate within whose jurisdiction such property for the time being is situated, and such magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) or any corresponding law in force in the State of Jammu and Kashmir.

(3) In this section the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

152. Powers of court-martial in relation to proceedings under this Act.— Any trial by a court-martial under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and the court-martial shall be deemed to be a court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).
CHAPTER XII
CONFIRMATION AND REVISION

153. Finding and sentence not valid, unless confirmed.—No finding or sentence of a general, district or summary general court-martial shall be valid except so far as it may be confirmed as provided by this Act.

154. Power to confirm finding and sentence of general court-martial.—The findings and sentences of general courts-martial may be confirmed by the Central Government, or by any officer empowered in this behalf by warrant of the Central Government.

155. Power to confirm finding and sentence of district court-martial.—The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court-martial or by any officer empowered in this behalf by warrant of such officer.

156. Limitation of powers of confirming authority.—A warrant issued under section 154 or section 155 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

157. Power to confirm finding and sentence of summary general court-martial.—The findings and sentences of summary general courts-martial may be confirmed by the convening officer or if he so directs, by an authority superior to him.

158. Power of confirming authority to mitigate, remit or commute sentences.—(1) Subject to such restrictions, reservations or conditions, as may be contained in any warrant issued under section 154 or section 155 and to the provisions of sub-section (2), a confirming authority may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 71.

(2) Repealed.

159. Confirming of findings and sentences on board a ship.—When any person subject to this Act is tried and sentenced by a court-martial while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

160. Revision of finding or sentence.—(1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming authority and on such revision, the court, if so directed by the confirming authority, may take additional evidence.
(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court martial, it still consists of five officers, or, if a summary general or district court-martial, of three officers.

161. Finding and sentence of a summary court-martial.—(1) Save as otherwise provided in sub-section (2), the finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith.

(2) If the officer holding the trial is of less than five years service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding not less than a brigade.

162. Transmission of proceedings of summary court-martial—The proceedings of every summary court-martial shall without delay be forwarded to the officer commanding the division or brigade within which the trial was held, or to the prescribed officer; and such officer, or the Chief of the Army Staff, or any officer empowered in this behalf by the Chief of the Army Staff, may, for reasons based on the merits of the case, but not any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the court might have passed.

163. Alteration of finding or sentence in certain cases.—(1) Where a finding of guilty by a court-martial, which has been confirmed, or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 179 to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the court-martial on the charge and unless it appears that the court-martial must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid, the authority referred to in sub-section (1) may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (1) or subsection (2) shall not be higher in the scale of punishments than, or in excess of
the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(4) Any finding substituted, or any sentence passed, under this section shall, for the purposes of this Act and the rules made thereunder, have effect as if it were a finding or sentence, as the case may be, of a court-martial.

164. Remedy against order, finding or sentence of court-martial.—(1) Any person subject to this Act who considers himself aggrieved by any order passed by any court martial may present a petition to the officer or authority empowered to confirm any finding or sentence of such court-martial, and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any court-martial which has been confirmed, may present a petition to the Central Government, the Chief of the Army Staff or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the (Chief of the Army Staff) or other officer, as the case may be, may pass such order thereon as it or he thinks fit.

165. Annulment of proceedings.—The Central Government, the Chief of the Army Staff or any prescribed officer may annul the proceedings of any court-martial on the ground that they are illegal or unjust.

CHAPTER XIII
EXECUTION OF SENTENCES

166. Form of sentence of death.—In awarding a sentence of death, a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

167. Commencement of sentence of (imprisonment for life) or imprisonment.—Whenever any person is sentenced by a court-martial under this Act to (imprisonment for life) or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the presiding officer or, in the case of a summary court-martial by the court.

168. Execution of sentence of imprisonment for life.—Whenever, any sentence of imprisonment for life is passed under this Act or whenever, any sentence of death is commuted to imprisonment for life, the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the
prescribed form to the officer in charge of the civil prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

169. Execution of sentence of imprisonment.—(1) Whenever any sentence of imprisonment is passed under this Act by a court-martial or whenever any sentence of death or (imprisonment for life)1 is commuted to imprisonment, the confirming officer or in case of a summary court-martial the officer holding the court or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (3) and (4), direct either that the sentence shall be carried out by confinement in a military prison or that it shall be carried out by confinement in a civil prison.

(2) When a direction has been made under sub-section (1), the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(3) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a court-martial, the appropriate officer under sub-section (1) may direct that the sentence shall be carried out by confinement in military custody instead of in a civil or military prison.

(4) On active service, a sentence of imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint.

169A. Period of custody undergone by the officer or person to be set off against the imprisonment.—When a person or officer subject to this Act is sentenced by a court martial to a term of imprisonment, not being an imprisonment in default of payment of fine, the period spent by him in civil or military custody during investigation, inquiry or trial of the same case, and before the date of order of such sentence, shall be set off against the term of imprisonment imposed upon him, and the liability of such person or officer to undergo imprisonment on such order of sentence shall be restricted to the remainder, if any, of the term of imprisonment imposed upon him.

170. Temporary custody of offender.—Where a sentence of imprisonment for life or imprisonment is directed to be undergone in a civil prison, the offender may be kept in a military custody or in any other fit place, till such time as it is possible to send him to a civil prison.

171. Execution of sentence of imprisonment in special cases.—Whenever, in the opinion of an officer commanding an army, army corps, division or independent brigade, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in a military prison or in military custody in
accordance with the provisions of section 169, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

172. **Conveyance of prisoner from place to place.**—A person under sentence of (imprisonment for life)1 or imprisonment may during his conveyance from place to place, or when on board ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

173. **Communications of certain orders to prison officers.**—Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil or military prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed to the officer in charge of the prison in which such person is confined.

174. **Execution of sentence of fine.**—When a sentence of fine is imposed by a court martial under section 69 whether the trial was held within India or not, a copy of such sentence, signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any magistrate in India, and such magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1973, or any corresponding law in force in the State of Jammu and Kashmir for the levy of fines as if it were a sentence of fine imposed by such magistrate.

175. **Establishment and regulation of military prisons.**—The Central Government may set apart any building or part of a building, or any place under its control, as a military prison for the confinement of persons sentenced to imprisonment under this Act.

176. **Informality or error in the order or warrant.**—Whenever any person is sentenced to (imprisonment for life)3 or imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person 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 which, or in pursuance whereof such person was brought into or is confined in any such place, and any such order, warrant or document may be amended accordingly.

177. **Power to make rules in respect of prisons and prisoners.**—The Central Government may make rules providing—

(a) for the government, management and regulation of military prisons;

(b) for the appointment, removal and powers of inspectors, visitors, governors and officers thereof;
(c) for the labour of prisoners undergoing confinement therein, and for enabling persons to earn, by special industry and good conduct, a remission of a portion of their sentence;
(d) for the safe custody of prisoners and the maintenance of discipline among them and the punishment, by personal correction, restraint or otherwise, of offences committed by prisoners;
(e) for the application to military prisons of any of the provisions of the Prisons Act, 1894 (IX of 1894), relating to the duties of officers of prisons and the punishment of persons not being prisoners;
(f) for the admission into any prison, at proper times and subject to proper restrictions, of persons with whom prisoners may desire to communicate, and for the consultation by prisoners under trial with their legal advisers without the presence as far as possible of any third party within hearing distance.

178. Restriction of rule-making power in regard to corporal punishment.—Rules made under section 177 shall not authorise corporal punishment to be inflicted for any offence, nor render the imprisonment more severe than it is under the law for the time being in force relating to civil prisons.

CHAPTER XIV
PARDONS, REMISSIONS AND SUSPENSIONS

179. Pardon and remission.—When any person subject to this Act has been convicted by a court-martial of any offence, the Central Government or the (Chief of the Army Staff) 1 or, in the case of a sentence, which he could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or independent brigade in which such person at the time of conviction was serving or the prescribed officer may—
(a) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or
(b) mitigate the punishment awarded; or
(c) commute such punishment for any less punishment or punishments mentioned in this Act :
(Proviso omitted).
(d) either with or without conditions which the person sentenced accepts, release the person on parole.

180. Cancellation of conditional pardon, release on parole or remission.—(1) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the
pardon, release or remission, not fulfilled, such authority may cancel the pardon, release or remission and thereupon the sentence of the court shall be carried into effect as if such pardon, release or remission had not been granted.

(2) A person whose sentence of (imprisonment for life) or imprisonment is carried into effect under the provisions of sub-section (1) shall undergo only the unexpired portion of his sentence.

181. Reduction of warrant officer or non-commissioned officer.—When under the provisions of section 77 a warrant officer or a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purpose of section 179, be treated as a punishment awarded by a sentence of a court-martial.

182. Suspension of sentence of imprisonment for life or imprisonment.—(1) Where a person subject to this Act is sentenced by a court-martial to imprisonment for life or imprisonment, the Central Government, the Chief of the Army Staff or any officer empowered to convene a general or a summary general court-martial may suspend the sentence whether or not the offender has already been committed to prison or to military custody.

(2) The authority or officer specified in sub-section (1) may in the case of an offender so sentenced direct that until the orders of such authority or officer have been obtained the offender shall not be committed to prison or to military custody.

(3) The powers conferred by sub-sections (1) and (2) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

183. Orders pending suspension.—(1) Where the sentence referred to in section 182 is imposed by a court-martial other than a summary court-martial, the confirming officer may when confirming the sentence, direct that the offender be not committed to prison or to military custody until the orders of the authority or officer specified in section 182 have been obtained.

(2) Where a sentence of imprisonment is imposed by a summary court-martial the officer holding the trial or the officer authorised to approve of the sentence under subsection (2) of section 161 may make the direction referred to in sub-section (1).

184. Release on suspension.—Where a sentence is suspended under section 182, the offender shall forthwith be released from custody.

185. Computation of period of suspension.—Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

186. Order after suspension.—The authority or officer specified in section 182 may, at any time while a sentence is suspended, order.—

(a) that the offender be committed to undergo the unexpired portion of the sentence; or
(b) that the sentence be remitted.

187. Reconsideration of case after suspension.—(1) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 182, or by any general or other officer not below the rank of field officer duly authorised by the authority or officer specified in section 182.

(2) Where on such reconsideration by the officer so authorised, it appears to him that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 182.

188. Fresh sentence after suspension.—Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(b) if the further sentence is for period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or military custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(c) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 186 or section 187, continue to be suspended.

189. Scope of power of suspension. —The powers conferred by sections 182 and 186 shall be in addition to and not in derogation of the power of mitigation, remission, and commutation.

190. Effects of suspension and remission on dismissal.—(1) Where in addition to any other sentence, the punishment of dismissal has been awarded by a court-martial, and such other sentence is suspended under section 182, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 182.

(2) If such other sentence is remitted under section 186, the punishment of dismissal shall also be remitted.

CHAPTER XV

RULES

191. Power to make rules.—(1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Act.
(2) Without prejudice to the generality of the power conferred by sub-section (1), the
rules made thereunder may provide for—
(a) the removal, retirement, release, or discharge from the service of persons subject
to this Act;
(b) the amount and incidence of fines to be imposed under section 89;
(c) omitted;
(d) the assembly and procedure of courts of inquiry, the recording of summaries of
evidence and the administration of oaths or affirmations by such courts;
(e) the convening and constituting of courts-martial and the appointment of
prosecutors at trials by courts-martial;
(f) the adjournment, dissolution and sitting of courts-martial;
(g) the procedure to be observed in trials by courts-martial and the appearance of
legal practitioners thereat;
(h) the confirmation, revision and annulment of, and petitions against, the findings
and sentences of courts-martial;
(i) the carrying into effect of sentences of courts-martial;
(j) the forms of orders to be made under the provisions of this Act relating to courts
martial, imprisonment for life and imprisonment;
(k) the constitution of authorities to decide for what persons, to what amounts and
in what manner, provisions should be made for dependent under section 99, and
the due carrying out of such decisions;
(l) the relative rank of the officers, junior commissioned officers, warrant
officers, petty officers and non-commissioned officers of the regular Army, Navy and Air
Force when acting together;
(m) any other matter directed by this Act to be prescribed.

192. Power to make regulations.—The Central Government may make regulations
for all or any of the purposes of this Act other than those specified in section 191.

193. Publication of rules and regulations in Gazette.—All rules and regulations
made under this Act shall be published in the Official Gazette and, on such
publication, shall have effect as if enacted in this Act.

193A. Rules and regulations to be laid down before Parliament. — Every rule
and every regulation made by the Central Government under this Act shall be laid,
as soon as may be after it is made, before each House of Parliament while it is in
session for a total period of thirty days which may be comprised in one session in
two or more successive sessions,
and if, before the expiry of the session immediately following the session, or the
successive sessions aforesaid, both Houses agree in making any modification in the
rule or regulation or both Houses agree that the rule or regulation should not be
made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation\textsuperscript{1}.

194. (Repealed).

**CHAPTER XVI**

[Omitted]

**TRANSITORY PROVISIONS** [Omitted]

195. [Omitted]

196. [Omitted]

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**THE ARMY RULES, 1954**

**CHAPTER—I**

**PRELIMINARY**

1. **Short title.**—These rules may be called the Army Rules, 1954.

2. **Definition.**—In these rules, unless the context otherwise requires,—

(a) “the Act” means the Army Act, 1950 (XLVI of 1950);

(b) “Appendix” means an appendix set forth in these rules;

(c) “Field Officer” includes an officer, not being a general officer, of any rank (including brevet rank) above the rank of Captain;

(cc) Omitted.

(d) “proper military authority”, when used in relation to any power, duty, act or matter, such military authority as, in pursuance of these rules or the regulations made under the Act or the usages of the service, exercises or performs that power or duty or is concerned with the act or matter;

(dii) Omitted.

(diii) “reckonable commissioned service” means service from the date of permanent commission, or the date of seniority for promotion fixed on grant of that commission including any ante date for seniority granted under the rules in force on grant of commission:

Provided that periods of service forfeited by sentence of court-martial or by summary award under the Act and periods of absence without leave, shall be
excluded but periods during which furlough rates of pay are drawn and periods of captivity on prisoners of war rates of pay shall be included.

(e) "Section" means a Section of the Act;

(f) all words and expressions used in these rules and not defined, but defined in the Act shall have the same meanings as in the Act.

3. Reports and applications.— Any report or application directed by these rules to be made to a superior authority, or a proper military authority, shall be made in writing through the proper channel, unless the said authority, on account of military exigencies or otherwise, dispenses with the writing.

4. Forms in Appendices.— (1) The forms set forth in the appendices to these rules, with such variations as the circumstances of each case may require, may be used for the respective purposes therein mentioned, and if used, shall be sufficient, but a deviation from such forms shall not, by reason only of such deviation, render invalid any charge, warrant, order, proceedings or any other document relevant to these rules.

(2) Any omission of any such form shall not, by reason only of such omission, render any act or thing invalid.

(3) The directions in the notes to, and the instructions in, the forms shall be duly complied with in all cases to which they relate, but any omission to comply with any such directions in the notes or instructions shall not, merely by reason of such omission, render any act or thing invalid.

5. Exercise of power vested in holder of military office.— Any power or jurisdiction given to, and any act or thing to be done by, to or before any person holding any military office for the purpose of these rules may be exercised by, or done by, to, or before any other person for the time being authorised in that behalf according to the custom of the service.

6. Cases unprovided for.— In regard to any matter not specifically provided for in these rules, it shall be lawful for the competent authority to do such thing or take such action as appears to it to be just and proper.

CHAPTER II
ENROLMENT AND ATTESTATION

7. Enrolling officers.— The following persons shall be the “enrolling officers” for the purpose of section 13, namely :-

(a) all recruiting and assistant recruiting officers including officers of the Indian Navy or of the Air Force, who may be appointed as such,
(b) the officer commanding a regiment, battalion or training or regimental centre, and

(c) any extra assistant recruiting officer or other person who may be appointed as an "enrolling officer" by the Adjutant General.

8. Persons to be attested.— All combatants, and other enrolled persons who may be selected to hold non-commissioned or acting non-commissioned rank shall, when reported fit for duty be attested in the manner provided in section 17.

9. Oath or affirmation to be taken on attestation. — (1) Every person required to be attested under section 16 shall make and subscribe an oath or affirmation in one of the following forms or in such other form to the same purport as the attesting officer ascertains to be in accordance with the religion of the person to be attested, or otherwise binding on his conscience.

Form of Oath
I..................do swear in the name of God that I will bear true faith and allegiance to the Constitution of India as by the law established and that I will, as in duty bound, honestly and faithfully serve in the regular Army of the Union of India and go wherever ordered by land, sea or air, and that I will observe and obey all commands of the President of the Union of India and the commands of any officer set over me even to the peril of my life.

Form of Affirmation
I.....................do solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will as in duty bound, honestly and faithfully serve in the regular Army of the Union of India and go wherever ordered by land, sea or air, and that I will observe and obey all commands of the President of the Union of India and the commands of any officer set over me even to the peril of my life.

(2) The aforesaid oath or affirmation shall whenever practicable, be administered by the commanding officer of the person to be attested (or in the presence of such commanding officer by a person empowered by him in this behalf) in the manner provided in section 17. If it is not so administered, it may be administered by a magistrate or a recruiting officer or an assistant recruiting officer or officer commanding the station.

10. Transfer from one corps or department to another.—Where the Central Government by any general or special order published in the Official Gazette so directs, any person enrolled under this Act may, notwithstanding anything to the contrary contained in the conditions of service for which he is enrolled, be transferred to any corps or department by order of an authority exercising powers not less than those of an officer commanding a division.
CHAPTER III
DISMISSAL, DISCHARGE, ETC.

11. Discharge not to be delayed.— (1) Every person enrolled under the Act shall, as soon as he becomes entitled under the conditions of his enrolment to be discharged, be so discharged with all convenient speed:

Provided that no person shall be entitled to such discharge, if the Central Government has, by notification suspended the said entitlement to discharge for the whole or a part of the regular Army.

(2) The discharge of a person, validly sanctioned by a competent authority, may, with the consent of the discharged person, be cancelled by any authority superior to the authority who sanctioned the discharge either without any conditions or subject to such conditions as such discharged person accepts.

12. Discharge Certificate.— (1) A certificate required to be furnished under the provisions of section 23 is hereinafter called a “discharge certificate”.

(2) A discharge certificate may be furnished either by personal delivery thereof by or on behalf of the commanding officer to the person dismissed, removed, discharged or released, or by the transmission of the same to such person by registered post.

13. Authorities empowered to authorise discharge.— (1) Each of the authorities specified in column 3 of the Table below shall be the competent authority to discharge from service person subject to the Act specified in column 1 thereof on the grounds specified in column 2.

(2) Any power conferred by this rule on any of the aforesaid authorities shall also be exercisable by any other authority superior to it.

(2A) Where the Central Government or the Chief of the Army Staff decides that any person or class or persons subject to the Act should be discharged from service, either unconditionally or on the fulfilment of certain specified conditions, then, notwithstanding anything contained in this rule, the Commanding Officer shall also be the competent authority to discharge from service such person or any person belonging to such class in accordance with the said decision.

(3) In this table “commanding officer” means the officer commanding the corps or department to which the person to be discharged belongs except that in the case of junior commissioned officers and warrant officers of the Special Medical Section of the Army Medical Corps, the “commanding officer” means the Director of the Medical Services, Army, and in the case of junior commissioned officer and warrant officers of Remounts, Veterinary and Farms Corps, the “Commanding Officers” means the Director Remounts, Veterinary and Farms.
<table>
<thead>
<tr>
<th>Category</th>
<th>Grounds of discharge</th>
<th>Competent authority to authorize discharge</th>
<th>Manner of discharge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Junior Commissioned Officers.</td>
<td>1.(i)(a) On completion of the period of service or tenure specified in the Regulations for his rank or appointment, or on reaching the age limit whichever is earlier, unless retained on the active list for further specified period with the sanction of the Chief of the Army staff or on becoming eligible for release under the Regulations. (b)At his own request on transfer to the pension establishment.</td>
<td>Commanding Officer</td>
<td>To be carried out only on the recommendation of an Invaliding Board.</td>
</tr>
<tr>
<td></td>
<td>1. (ii) Having been found medically unfit for further service.</td>
<td>Commanding Officer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(iii) All other classes of discharge.</td>
<td>Commanding Officer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) In the case of Junior Commissioned Officers granted direct commissions during the first 12 months service Area/Divisional</td>
<td>Commanding Officer</td>
<td>If the discharge is not at the request of the Junior Commissioned Officer, the Competent authority before sanctioning the</td>
</tr>
<tr>
<td>Warrant Officer</td>
<td>Persons enrolled under the Act who have been attested.</td>
<td>Commander</td>
<td>discharge shall, if the circumstances of the case permit, give the Junior Commissioned Officer concerned an opportunity to show cause against the order of discharge.</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------------------------------------------------</td>
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<td>--------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| II.(i) (a) On completion of the period of service or tenure specified in the Regulations for this rank or appointment, or on reaching the age limit, whichever is earlier, unless retained on the active list for a further specified period with the sanction of the Brigade/Sub Area commander or on becoming eligible to release under the Regulations.  
(b) At his own request on transfer to the pension establishment.  
(ii) Having been found medically unfit for further service.  
(iii) All other classes of discharge. | Commander | (b) In the case of JCOs not covered by (a), serving in any Army or Command the General Officer Commanding-in-Chief of that army or command if not below the rank of Lieutenant General.  
(c) In any other case the Chief of the Army Staff. | Commanding Officer |
| | | | |
## APPENDIX

### III. (i) On fulfilling the conditions of his enrolment or having reached the stage at which discharge may be enforced.

<table>
<thead>
<tr>
<th>Persons enrolled under the Act but not attested.</th>
<th>Officer</th>
<th>To be carried out only on the recommendation of an Invaliding Board.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warrant Officer class-I, the General Officer</td>
<td>Commanding-in-Chief of the Command in which the warrant officer is serving, Other warrant officer, Divisional, Area or Independent Brigade/Sub Area Commanders.</td>
<td></td>
</tr>
<tr>
<td>Commanding Officer and, in the case of a person of the rank of Havildar (or equivalent rank) where such person is to be discharged, otherwise than at his own request and where the commanding officer below the rank of Lieutenant Colonel, the Brigade or Sub Area Commander.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commanding Officer (in the case of persons Unwilling to extend their Army service).</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(ii) On completion of a period of army service only, there being no vacancy in the Reserve.

(iii) Having been found medically unfit for further service.

Applicable to person enrolled for both Army service and Reserve service (A person who has the right to extend his Army service and wishes to exercise that right cannot be
<table>
<thead>
<tr>
<th>IV. All classes of discharge</th>
<th>Commanding Officer or Officer Commanding</th>
</tr>
</thead>
<tbody>
<tr>
<td>(iv) At his own request before fulfilling the conditions of his enrolment.</td>
<td>Commanding Officer</td>
</tr>
<tr>
<td>(v) All other classes of discharge.</td>
<td>Brigade/Sub Area Commander</td>
</tr>
<tr>
<td>discharged under this head). To be carried out only on the recommendation of an Invaliding Board.</td>
<td></td>
</tr>
<tr>
<td>The Commanding officers will exercise this power only where he is satisfied as to the desirability of sanctioning the application that the strength of the unit will not thereby be unduly reduced.</td>
<td></td>
</tr>
<tr>
<td>The Brigade or sub area Commander before ordering the discharge shall, if the circumstances of the case permit give to the person whose discharge is contemplated an opportunity to show cause against the contemplated discharge.</td>
<td></td>
</tr>
<tr>
<td>Recruit reception Camp or a Recruiting, Technical Recruiting or Deputy Technical Recruiting officer.</td>
<td>In the case of persons requesting to be discharged before fulfilling the conditions of their enrolment, the commanding officers will exercise this power only where he is satisfied as to the desirability of sanctioning the application that the strength of the unit will not thereby be unduly reduced. Recruits who are considered unlikely to become efficient soldiers will be dealt with under this item.</td>
</tr>
</tbody>
</table>

13-A. Termination of service of an officer by the Central Government on his failure to qualify at an examination or course.— (1) When an officer does not appear at or, having appeared fails to qualify, at the retention examination or promotion examination or any other basic course or examination within the time or extended time specified in respect of that examination or course, the Chief of the Army Staff or the Military Secretary shall call upon the officer to show cause why he should not be compulsorily retired or removed from the service.

(2) In the absence of any explanation or in the event of the explanation being considered by the Chief of the Army Staff [or the Military Secretary]1 to be unsatisfactory, the matter shall be submitted to the Central Government for orders, together with the Officer's explanation and the recommendation of the Chief of the Army Staff or the Military Secretary as to whether the officer should be—

(a) called upon to retire; or
(b) called upon to resign.

(3) The Central Government, after considering the explanation, if any, of the officer and the recommendation of the Chief of the Army Staff or the Military Secretary may call upon the officer to retire or resign, and on his refusing to do so, the officer may
be compulsorily retired or removed from the service on pension or gratuity, if any,
admissible to him.

14. Termination of service by the Central Government on account of misconduct.—(1) When it is proposed to terminate the service of an officer under Section 19 on account of misconduct, he shall be given an opportunity to show cause in the manner specified in sub-rule (2) against such action:—

Provided that this sub-rule shall not apply:—

(a) where the service is terminated on the ground of conduct which has led to his conviction by a criminal court; or

(b) where the Central Government is satisfied that for reasons, to be recorded in writing, it is not expedient or reasonably practicable to give to the officer an opportunity of showing cause.

(2) When after considering the reports on an officer’s misconduct, the Central Government or the Chief of the Army Staff is satisfied that the trial of the officer by a court martial is inexpedient or impracticable, but is of the opinion, that the further retention of the said officer in the service is undesirable, the Chief of the Army Staff shall so inform the officer together with all reports adverse to him and he shall be called upon to submit, in writing, his explanation and defence:

Provided that the Chief of the Army Staff may withhold from disclosure any such report or portion thereof if, in his opinion, its disclosure is not in the interest of the security of the State. In the event of the explanation of the officer being considered unsatisfactory by the Chief of the Army Staff, or when so directed by the Central Government, the case shall be submitted to the Central Government, with the officer’s defence and the recommendation of the Chief of the Army Staff as to the termination of the officer’s service in the manner specified in sub-rule (4).

(3) Where, upon the conviction of an officer by a criminal court, the Central Government or the Chief of the Army Staff considers that the conduct of the officer which has led to his conviction renders his further retention in service undesirable, a certified copy of the judgment of the criminal court convicting him shall be submitted to the Central Government with the recommendation of the Chief of the Army Staff as to the termination of the officer’s service in the manner specified in sub-rule (4).

(4) When submitting a case to the Central Government under the provisions of sub rule (2) or sub-rule (3), the Chief of the Army Staff shall make his recommendation whether the officer’s service should be terminated and if so, whether the officer should be:-

(a) dismissed from the service; or
(b) removed from the service; or
(c) compulsorily retired from the service.

5. The Central Government after considering the reports and the officer's defence, if any, or the judgement of the criminal court, as the case may be, and the recommendation of the Chief of the Army Staff, may—
(a) dismiss or remove the officer with or without pension or gratuity; or
(b) compulsorily retire him from the service with pension and gratuity, if any, admissible to him.

15. Termination of Service by the Central Government on grounds other than misconduct.—(l) When the Chief of the Army Staff is satisfied that an officer is unfit to be retained in the service due to inefficiency or physical disability the officer—
(a) shall be so informed,
(b) shall be furnished with the particulars of all matters adverse to him, and
(c) shall be called upon to urge any reasons he may wish to put forward in favour of his retention in the services;
Provided that clauses (a), (b) and (c) shall not apply if the Central Government is satisfied that for reasons, to be recorded by it in writing, it is not expedient or reasonably practicable to comply with the provisions thereof.
Provided further that the Chief of the Army Staff [or Military Secretary]1 may not furnish to the officer any matter adverse to him, if in his opinion, it is not in the interest of the security of the State to do so.

(2) In the event of the explanation being considered by the Chief of the Army Staff or Military Secretary unsatisfactory, the matter shall be submitted to the Central Government for orders, together with the officer's explanation and the recommendation of the Chief of the Army Staff as to whether the officer should be—
(a) called upon to retire; or
(b) called upon to resign.

(3) The Central Government after considering the reports, the explanation, if any, of the officer and the recommendation of the Chief of the Army Staff, may call upon the officer to retire or resign, and on his refusing to do so, the officer may be compulsorily retired or removed from the service on pension or gratuity, if any admissible to him.

15-A. Release on medical grounds.—(1) An officer who is found by a Medical Board to be permanently unfit for any form of military service may be released from the service in accordance with the procedure laid down in this rule.

(2) The President of the Medical Board shall, immediately after the Medical Board has come to the conclusion that the officer is permanently unfit for any form of military service, issue, a notice specifying the nature of the disease or disability he is
suffering from and the finding of the Medical Board and also intimating him that in view of the finding he may be released from the service; every such notice shall also specify that the officer may, within fifteen days of the date of receipt of the notice, prefer a petition against the finding of the Medical Board to the Chief of the Army Staff through the President of the Medical Board:

Provided that where in the opinion of the medical board the officer is suffering from a mental disease and it is either unsafe to communicate the nature of the disease or disability to the officer or the officer is unfit to look after his interests, the nature of the disease or disability shall be communicated to the officer’s next-of-kin who shall have the like right to petition.

(3) If no petition is preferred within the time specified in sub-rule (2), the officer may be released from the service by an order to that effect by the Chief of the Army Staff or the Adjutant General.

(4) If a petition is preferred within the time specified in sub-rule (2), it shall be forwarded to the Central Government together with the records thereof and the recommendation of the Chief of the Army Staff [or the Adjutant General]¹. The Central Government may, after considering the petition and the recommendation of the Chief of the Army Staff [or the Adjutant General] ¹, pass such order as it deems fit.

16. Release.—A person subject to the Act may be released from the service in accordance with the Release Regulations for the Army or in accordance with any other regulations, instructions or orders made in that behalf.

16A. Retirement of Officers.— (1) Officers shall be retired from service under the orders of the Central Government, or the authorities specified in sub rule (2), with effect from the afternoon of the last date of the month in which they:

(a) attain the age limits specified in sub-rule (5); or

(b) complete the tenures of appointment specified in sub-rule (f) (ii) and (g) (ii) and sub-rule (6), whichever is earlier.

(2) The authorities referred to in sub-rule (1) shall be:

(a) the Director General Armed Forces Medical Services in respect of Officers of the Army Medical Corps, Army Dental Corps and Military Nursing Service;

(b) the Additional Director General, Remount and Veterinary Corps in respect of officers of that Corps below the rank of Colonel;

(c) the Deputy Director General of Military Farms in respect of Officers of the Military Farms below the rank of Colonel;

(d) the Military Secretary, Army Headquarters in respect of all other Officers.
(3) The orders shall specify the date from which retirement shall be effective and subject to the provisions of sub-rule (4), the officer shall be relieved of his duties on that date.

(4) An Officer who has attained the age of retirement or has become due for such retirement on completion of his tenure, may be retained in the service for a further period by the Central Government, if the exigencies of the service so requires.

(5) The following shall be the age of retirement for officer:

(a) of Armoured Corps, Infantry Artillery, Engineers and Signals:

- Upto and including the rank of Major — 50 years
- Lieutenant Colonel (Time Scale) — 51 years
- Lieutenant Colonel (Selection) — 52 years
- Colonel — 52 years
- Brigadier — 54 years
- Major General — 56 years
- Lieutenant General — 58 years
- General — 60 years

(b) of Army Service Corps (Excluding Food Inspection Organisation), Army Ordnance Corps, Electrical and Mechanical Engineers, Pioneer Corps and Intelligence Corps:

- Upto and including the rank of Colonel — 52 years
- Brigadier — 54 years
- Major General — 56 years
- Lieutenant General — 58 years

(c) of Food Inspection Organisation:

- Upto and including the rank of Lieutenant Colonel (Time Scale) — 52 years
- Lieutenant Colonel (Selection) — 52 years

(d) of Judge Advocate General’s Department, Army Education Corps, Military Farms, Special List Officer [Quartermaster, Technical Record Officers] and Army Physical Training Corps (Master-at-Arms) and Remount and Veterinary Corps:

- Upto and including the rank of Colonel — 55 years
- Brigadier — 56 years
- Major General — 57 years
- Lieutenant General — 58 years

(e) of Army Medical Corps, Army Dental Corps and Military Nursing Service:

- Upto and including the rank of Lieutenant Colonel — 55 years
- Colonel — 57 years
- Brigadier — 58 years
- Major General — 59 years
Lieutenant General — 60 years
All officers of Army Medical Corps (Non-Technical) — 55 years

(f) (i) permanently seconded to Defence Research and Development Organisation:
Upto and including the rank of Major General or equivalent — 57 years
Lieutenant General — 58 years
Provided that officers upto the rank of Major General or equivalent shall be given two reviews; one at the age of 52 years and the other at the age of 55 years, carried out well in advance by the Defence Research and Development Organisation Selection Board as per its own laid criteria, to determine the suitability for continuation beyond that age unless the officer volunteers for retirement. The officers found unsuitable for continuation in either of reviews shall retire on attaining the age of 52 years or 55 years, as the case may be.

(ii) the tenure in the substantive rank of Lieutenant General shall be four years.

(g) (i) permanently seconded to Directorate General Quality Assurance:
Upto and including the rank of Major General or equivalent — 57 years
Lieutenant General — 58 years
Provided that officers upto the rank of Major General or equivalent shall be given two reviews; one at the age of 52 years and the other at the age of 55 years, carried out well in advance by the Inspection Selection Board as per its own laid criteria, to determine the suitability for continuation beyond that age. The officers found unsuitable for continuation in either of reviews shall retire on attaining the age of 52 years or 55 years, as the case may be.

(ii) the tenure in the rank of Lieutenant General shall be four years.

(h) of Engineers permanently seconded to Survey of India as under the civil rules applicable to them from time to time.

(6) The following shall be the tenures of appointment for the purpose of retirement:
(a) The tenure in the rank of a General shall be a maximum of 3 years
(b) Army Medical Corps Officers holding the rank of Lieutenant General shall serve in that rank for one tenure of 4 years:

Provided an officer holding the appointment of Director General Medical Services (Army) or Director General Medical Services (Navy) or Director General Medical Services (Air) or Commandant Armed Forces Medical College or Commandant Army Medical Corps School and Centre, Lucknow or Additional Director General Armed Forces Medical Services in the rank of Lieutenant General shall, in the event of his being appointed as Director General Armed Forces Medical Services, shall serve for a combined tenure of 5 years.

(c) The tenure of Army Dental Corps Officers of the rank of Major General shall be a maximum of 4 years.
Explanation I— For the purpose of this rule,—
(a) “Lieutenant Colonel” means a Lieutenant Colonel by Selection and includes a Lieutenant Colonel by time scale in the Army Medical Corps, Army Dental Corps and Veterinary Cadre of Remount and Veterinary Corps;
(b) “rank” means a substantive rank.

Explanation II— For the purpose of this rule,—
(a) Age of retirement as specified in sub-rule (5) shall apply to permanent commissioned officers in their respective substantive ranks.
(b) Stipulated age of retirement in the rank of Lieutenant General, Major General in Army Education Corps, Intelligence Corps, Remount and Veterinary Corps, Judge Advocate General’s Department, Pioneer Corps, Military Farms and Special List Officers Cadre will be applicable only when these ranks are sanctioned in the Corps, Department or Cadre, as the case may be.
(c) Officers of the Intelligence Corps, Judge Advocate General’s Department, Army Education Corps, Remount and Veterinary Corps, and Military Farms who had opted to be governed by the age of retirement prevalent prior to the issue of Government of India. Ministry of Defence, letter Nos A/49453/AG/PS2 (a)/3770S/D (AG) dated 26 Jul 1984 and A/49453/AG/PS2 (a)/Minor Corps-S/D (AG) dated 26 Jul 1985, as applicable, shall continue to be so governed.

16-B. Retirement of an officer at his own request.—(1) The retirement of an officer at his own request before he becomes liable to retirement under rule 16A shall require the sanction of the Central Government.

(2) An officer whose request to retire is granted may, before he is retired, apply to the Central Government for withdrawal of his request. The Central Government may, at its discretion, grant such withdrawal of his application.

16-C. Resignation of Commission.—(1) An officer shall have no right to resign his commission but may submit an application to the Central Government to resign his commission. He shall not be relieved of his duties until the Central Government has accepted his resignation.

(2) An officer whose application to resign his commission has been accepted may, before he is relieved of his duties, apply to the Central Government for withdrawal of the said application. The Central Government may, at its discretion, grant withdrawal of his application.

17. Dismissal or removal by Chief of the Army Staff and by other officers.— Save in the case where a person is dismissed or removed from service on the ground of conduct which has led to his conviction by a criminal court, or a court-martial, no person shall be dismissed or removed under sub-section (1) or sub-section (3), of section 20, unless he has been informed of the particulars of the cause of action
against him and allowed reasonable time to state in writing any reasons he may have to urge against his dismissal or removal from the service:

Provided that if in the opinion of the officer competent to order the dismissal or removal, it is not expedient or reasonably practicable to comply with the provisions of this rule, he may, after certifying to that effect, order the dismissal or removal without complying with the procedure set out in this rule. All cases of dismissal or removal under this rule where the prescribed procedure has not been complied with shall be reported to the Central Government.

18. **Date from which retirement, resignation, removal, release, discharge or dismissal otherwise than by sentence of court-martial takes effect.**—(1) The dismissal of an officer under Section 19 or the retirement, resignation, release or removal of such officer shall take effect from the date specified in that behalf in the notification of such dismissal, retirement or removal in the Official Gazette.

(2) The dismissal of a person subject to the Act, other than an officer whose dismissal otherwise than by sentence of a court-martial is duly authorised or the discharge of a person so subject whose discharge, if duly authorised, shall be carried out by the commanding officer of such person with all convenient speed. The authority competent to authorise such dismissal or discharge may, when authorising the dismissal or discharge, specify any future date from which it shall take effect:

Provided that if no such date is specified, the dismissal or discharge shall take effect from the date on which it was duly authorised or from the date on which the person dismissed or discharged, ceased, to perform military duty, whichever is the later date.

(3) The retirement, removal, resignation, release, discharge or dismissal of a person subject to the Act shall not be retrospective.

**CHAPTER IV**

**RESTRICTIONS OF FUNDAMENTAL RIGHTS**

19. **Unauthorised organisation.**—No person subject to the Act shall, without the express sanction of the Central Government—

(i) take official cognisance of, or assist or take any active part in, any society, institution or organisation, not recognised as part of the Armed Forces of the Union; unless it be of a recreational or religious nature in which case prior sanction of the superior officer shall be obtained;
(ii) be a member of, or be associated in any way with, any trade union or labour union, or any class of trade or labour unions.

20. Political and non-military activities.—(1) No person subject to the Act shall attend, address, or take part in, any meeting or demonstration held for a party or any political purposes, or belong to or join or subscribe in the aid of, any political association or movement.

(2) No person subject to the Act shall issue an address to electors or in any other manner publicly announce himself or allow himself to be publicly announced as a candidate or as a prospective candidate for election to Parliament, the Legislature of a State or a local authority, or any public body or act as a member of a candidate’s election committee, or in any way actively promote or prosecute a candidate’s interests.

21. Communications to the Press, Lectures, etc.—No person subject to the Act shall—

(i) publish in any form whatever or communicate directly or indirectly to the Press any matter in relation to a political question or on a service subject or containing any service information, or publish or cause to be published any book or letter or article or other document on such question or matter or containing such information without the prior sanction of the Central Government, or any officer specified by the Central Government in this behalf; or

(ii) deliver a lecture or wireless address, on a matter relating to a political question or on a service subject or containing any information or views on any service subject without the prior sanction of the Central Government or any officer specified by the Central Government in this behalf.

Explanation.—For the purposes of this rule, the expression “service information” and “service subject” include information or subject, as the case may be, concerning the forces, the defence or the external relation of the Union.

CHAPTER V

INVESTIGATION OF CHARGES AND TRIAL BY COURT-MARTIAL

SECTION I—INVESTIGATION OF CHARGES AND REMAND FOR TRIAL

Power of Commanding Officers

22. Hearing of Charge.—(1) Every charge against a person subject to the Act shall be heard by the Commanding Officer in the presence of the accused. The accused shall have full liberty to cross-examine any witness against him, and to call any witness and make such statement as may be necessary for his defence:
Provided that where the charge against the accused arises as a result of investigation by a court of inquiry, wherein the provisions of rule 180 have been complied with in respect of that accused, the commanding officer may dispense with the procedure in sub-rule (1).

(2) The commanding officer shall dismiss a charge brought before him if, in his opinion, the evidence does not show that an offence under the Act has been committed, and may do so if, he is satisfied that the charge ought not be proceeded with:

Provided that the commanding officer shall not dismiss a charge which he is debarred to try under sub-section (2) of Section 120 without reference to superior authority as specified therein.

(3) After compliance of sub-rule (1), if the commanding officer is of opinion that the charge ought to be proceeded with, he shall within a reasonable time—

(a) dispose of the case under section 80 in accordance with the manner and form in Appendix III; or
(b) refer the case to the proper superior military authority; or
(c) adjourn the case for the purpose of having the evidence reduced to writing; or
(d) if the accused is below the rank of warrant officer, order his trial by a summary court-martial;

Provided that the commanding officer shall not order trial by a summary court-martial without a reference to the officer empowered to convene a district court-martial or on active service a summary general court-martial for the trial of the alleged offender unless—

(a) the offence is one which he can try by a summary court-martial without any reference to that officer; or
(b) he considers that there is grave reason for immediate action and such reference cannot be made without detriment to discipline.

(4) Where the evidence taken in accordance with sub-rule (3) of this rule discloses an offence other than the offence which was the subject of the investigation, the commanding officer may frame suitable charge(s) on the basis of the evidence so taken as well as the investigation of the original charge.

Explanation—where an officer, other than the commanding officer, proposes to proceed against an accused under Sec 80 of the Act, the provisions of sub rules (1) to (3) of this rule shall, in so far as they are applicable, may be complied with by such officer.

23. Procedure for taking down the summary of evidence.—(1) Where the case is adjourned for the purpose of having the evidence reduced to writing, at the adjourned hearing evidence of the witnesses who were present and gave evidence
before the commanding officer, whether against or for the accused, and of any other person whose evidence appears to be relevant, shall be taken down in writing in the presence and hearing of the accused before the commanding officer or such officer as he directs.

(2) The accused may put in cross-examination such questions as he thinks fit to any witness, and the questions together with the answers thereto shall be added to the evidence recorded.

(3) The evidence of each witness after it has been recorded as provided in the rule when taken down, shall be read over to him and shall be signed by him or if he cannot write his name shall be attested by his mark and witnessed as a token of the correctness of the evidence recorded. After all the evidence against the accused has been recorded, the accused will be asked; “Do you wish to make any statement? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.” Any statement thereupon made by the accused shall be taken down and read over to him, but he will not be cross-examined upon it. The accused may then call his witnesses, including if he so desires, any witnesses as to character.

(4) The evidence of the witnesses and the statement (if any) of the accused shall be recorded in the English language. If the witness or accused, as the case may be, does not understand the English language, the evidence or statement, as recorded, shall be interpreted to him in a language which he understands.

(5) If a person cannot be compelled to attend as a witness, or if owing to the exigencies of service or any other grounds (including the expense and loss of time involved), the attendance of any witness cannot in the opinion of the officer taking the summary (to be certified by him in writing), be readily procured, a written statement of his evidence purporting to be signed by him may be read to the accused and included in the summary of evidence.

(6) Any witness who is not subject to military law may be summoned to attend by order under the hand of the commanding officer of the accused. The summons shall be in the form provided in Appendix III.

24. Remand of accused.—(l) The evidence and statement (if any) taken down in writing in pursuance of rule 23 (hereinafter referred to as the “summary of evidence”), shall be considered by the commanding officer, who thereupon shall either—

(a) remand the accused for trial by a court-martial; or
(b) refer the case to the proper superior military authority; or
(c) if he thinks it desirable, re-hear the case and either dismiss the charge or dispose of it summarily.
(2) If the accused is remanded for trial by a court-martial, the commanding officer shall without unnecessary delay either assemble a summary court-martial (after referring to the officer empowered to convene a district court-martial or on active service a summary general court-martial when such reference is necessary) or apply to the proper military authority to convene a court-martial, as the case may require.

25. Omitted.

26. Summary disposal of charges against Officer, Junior Commissioned Officer or Warrant Officer.—(1) Where an officer, a junior commissioned officer or a warrant officer is remanded for the disposal of a charge against him by an authority empowered under section 83, 84 or 85 to deal summarily with that charge the summary of evidence [ ]2 shall be delivered to him free of charge, with a copy of the charge as soon as practicable after its preparation and in any case not less than twenty four hours before the disposal.

(2) Where the authority empowered under section 83, 84 or 85 decides to deal summarily with a charge against an officer, junior commissioned officer or warrant officer, he shall, unless he dismisses the charge or unless the accused has consented in writing to dispense with the attendance of the witnesses, hear the evidence in the presence of the accused. The accused shall have full liberty to cross-examine any witness against him, and to call any witnesses and make a statement in his defence.

(3) The proceedings shall be recorded as far as practicable in accordance with the form in Appendix IV and in every case in which punishment is awarded, the proceedings together with the conduct sheet, summary [ ]1of evidence and written consent to dispense with the attendance of witnesses (if any) of the accused shall be forwarded through the proper channel to the superior military authority as defined in section 88.

27. Delay reports.— (1) In every case where a person subject to the Act, who is not on active service, is in military custody for a period longer than eight days without a court martial for his trial having been ordered to assemble, or without a punishment having been awarded to him under section 80, the Commanding Officer shall make a report in the form specified in Appendix III to the officer empowered to convene a general or a district court martial for the trial of such person. Such report shall be made to the authority mentioned in this rule at intervals of every eight days until a court-martial is ordered to assemble, or a punishment is awarded under section 80, or such person is released from custody as the case may be.

(2) A copy of every such report made on or after the forty-eighth day of such custody shall be sent by the commanding officer direct to the Deputy Judge Advocate General of the command in which such person is held in custody.
(3) (i) Detention in military custody beyond two months of a person subject to the Act, who is not on active service and in whose case a court-martial for trial has not been ordered to assemble shall require the sanction of the Chief of the Army Staff, or any officer authorized by him in this behalf with the approval of the Central Government, who may sanction further detention for a specific period, which he may extend from time to time, subject to a total period of detention of three months.

(ii) Any such detention beyond a period of three months shall require the approval of the Central Government.

Framing Charges

28. Charge-sheet and charge.—(1) A charge-sheet shall contain the whole issue or issues to be tried by a court-martial at one time.

(2) A charge means an accusation contained in a charge-sheet that a person subject to the Act has been guilty of an offence.

(3) A charge-sheet may contain one charge or several charges.

29. Commencement of charge-sheet.—Every charge-sheet shall begin with the name and description of the person charged and state his number, rank, name and the corps or department (if any) to which he belongs. When the accused person does not belong to the regular Army, the charge-sheet shall show by the description of him, or directly by an express averment, that he is subject to the Act in respect of the offence charged.

30. Contents of charge.—(1) Each charge shall state one offence only, and in no case shall an offence be described in the alternative in the same charge.

(2) Each charge shall be divided into two parts—

(a) statement of the offence; and

(b) statement of the particulars of the act, neglect or omission constituting the offence.

(3) The offence shall be stated, if not a civil offence, as nearly as practicable in the words of the Act, and if a civil offence, in such words as sufficiently describe in technical words.

(4) The particulars shall state such circumstances respecting the alleged offence as will enable the accused to know what act, neglect or omission is intended to be proved against him as constituting the offence.

(5) The particulars in one charge may be framed wholly or partly by a reference to the particulars in another charge, and in that case so much of the latter particulars
as are so referred, to shall be deemed to form part of the first mentioned charge as well as of the other charge.

(6) Where it is intended to prove any fact in respect of which any deduction from pay and allowances can be awarded as a consequence of the offence charged, the particulars shall state those facts and the sum of the loss or damage it is intended to charge.

31. Signature on charge-sheet.—The charge-sheet shall be signed by the commanding officer of the accused and shall contain the place and date of such signature.

32. Validity of charge-sheet.—(1) A charge-sheet shall not be invalid merely by reason of the fact that it contains any mistake in the name or description of the person charged, provided that he does not object to the charge-sheet during the trial, and that no substantial injustice has been done to the person charged.

(2) In the construction of a charge-sheet or charge, there shall be presumed in favour of supporting the same every proposition which may reasonably be presumed to be impliedly included though not expressed therein.

Preparation for defence by accused person

33. Rights of accused to prepare defence.—(1) Correspondence between the accused and his legal advisers shall not be liable to be censored. The accused shall inform his commanding officer of the names of such advisers and shall also inform him of any distinctive marks that such correspondence will bear.

(2) An accused person shall have the right to interview any witnesses whom he may wish to call in his defence. The provisions of rule 137 shall apply to procuring the attendance of such witnesses.

(3) If the accused so desires, the commanding officer of the accused shall take such steps as the circumstances of the case permit to obtain a written statement from a witness whom the accused may wish to call in his defence. The statement shall be obtained in a closed envelope which shall be given to the accused person unopened.

(4) If the accused person gives to his commanding officer the name of any person whom he wishes to call in his defence, no person shall interview such witness with reference to the charges against the accused except in the presence of the accused, unless the accused agrees to dispense with his presence in writing. Similarly if the accused wishes to interview a witness whom the prosecutor intends to call, the interview shall be in the presence of an officer detailed by the commanding officer of the accused person.
(5) The commanding officer of the accused person or the officer responsible for his custody shall take adequate precautions so that no conversation which the accused person may have with his legal advisers or witnesses is liable to be overheard.

(6) The accused person shall have the right to address an application to the Deputy or Assistant Judge Advocate General of the command within which he for the time being is, if he is kept under arrest longer than forty-eight days without being brought to trial or is not given full liberty for preparing his defence.

(7) As soon as practicable after an accused has been remanded for trial by a general or district court-martial, and in any case not less than ninety-six hours or on active service twenty-four hours before his trial, an officer shall give to him free of charge a copy of the summary of evidence, and explain to him his rights under these rules as to preparing his defence and being assisted or represented at the trial, and shall ask him to state in writing whether or not he wishes to have an officer assigned by the convening officer to represent him at the trial, if a suitable officer should be available. The convening officer shall be informed whether or not the accused so elects.

34. Warning of accused for trial.—(1) The accused before he is arraigned shall be informed by an officer of every charge for which he is to be tried and also that, on his giving the names of witnesses whom he desires to call in his defence, reasonable steps will be taken for procuring their attendance, and those steps shall be taken accordingly. The interval between his being so informed and his arraignment shall not be less than ninety-six hours or where the accused person is on active service less than twenty-four hours.

(2) The officer at the time of so informing the accused shall give him a copy of the charge sheet and shall, if necessary, read and explain to him the charges brought against him. If the accused desires to have it in a language which he understands, a translation thereof shall also be given to him.

(3) The officer shall also deliver to the accused a list of the names, rank and corps (if any), of the officers who are to form the court, and where officers in waiting are named, also of those officers in courts-martial other than summary courts-martial.

(4) If it appears to the court that the accused is liable to be prejudiced at his trial by any non-compliance with this rule, the court shall take steps and, if necessary, adjourn to avoid the accused being so prejudiced.

35. Joint trial of several accused persons.—(l) Any number of accused persons may be charged jointly and tried together for an offence averred to have been committed by them collectively.
(2) Any number of accused persons, although not charged jointly, may be tried together for an offence averred to have been committed by one or more of them and to have been abetted by the other or others.

(3) Where the accused are so charged under sub-rules (1) and (2), any one or more of them may at the same time be charged with and tried for any other offence averred to have been committed individually or collectively, provided that all the said offences are based on the same facts, or form or are part of a series of offences of the same or similar character.

(4) In the cases mentioned above, notice of the intention to try the accused persons together shall be given to each of the accused at the time of his being informed of the charges, and any accused person may claim, either by notice to the authority convening the court or, when arraigned before the court, by notice to the court that he or some other accused be tried separately on one or more of the charges included in the charge-sheet, on the ground that the evidence of one or more of the other accused persons proposed to be tried together with him, will be material to his defence, or that otherwise he would be prejudiced or embarrassed in his defence. The convening authority or court, if satisfied that the evidence will be material or that the accused may be prejudiced or embarrassed in his defence as aforesaid, and if the nature of the charge admits of this, shall allow the claim and such accused person, or as the case may be, the other accused person or persons whose separate trial has been claimed, shall be tried separately. Where any such claim has been made and disallowed by the authority convening the court, or by the court, the disallowance of such claim will not be a ground for refusing confirmation of the finding or sentence unless, in the opinion of the confirming authority, substantial miscarriage of justice has occurred by reason of the disallowance of such claim.

36. Suspension of rules on the ground of military exigencies or the necessities of discipline.—Where it appears to the officer convening a court-martial or to the senior officer on the spot, that military exigencies or the necessities of discipline render it impossible or inexpedient to observe any of the rules 23, 24, 33 and 34 and sub-rule (2) of rule 95, he may, by order under his hand, make a declaration to that effect specifying the nature of such exigencies or necessities, and thereupon the trial or other proceedings shall be as valid as if the rule mentioned in such declaration had not been contained herein; and such declaration may be made with respect to any or all of the rules aforesaid in the case of the same court martial:

Provided that the accused shall have full opportunity of making his defence, and shall be afforded every facility for preparing it, which is practicable, having due regard to the said exigencies or necessities.
SECTION 2—GENERAL AND DISTRICT COURTS-MARTIAL

Convening the Court

37. Convening of General and District Court-Martial.— (1) An officer before convening a general or district court-martial shall first satisfy himself that the charges to be tried by the court are for offences within the meaning of the Act, and that the evidence justifies a trial on those charges, and if not so satisfied, shall order the release of the accused, or refer the case to superior authority.

(2) He shall also satisfy himself that the case is a proper one to be tried by the kind of court-martial which he proposes to convene.

(3) The officer convening a court-martial shall appoint or detail the officers to form the court and, may also appoint or detail such waiting officers as he thinks expedient. He may also, where he considers the services of an interpreter to be necessary, appoint or detail an interpreter to the court.

(4) The officer convening a court-martial shall furnish to the senior member of the court with the original charge-sheet on which the accused is to be tried and, where no judge advocate has been appointed, also with a copy of the summary of evidence and the order for the assembly of the court-martial. He shall also send, to all the other members, copies of the charge sheet and to the judge-advocate when one has been appointed, a copy of the charge sheet and a copy of the summary of evidence.

38. Adjournment for insufficient number of officers.— (1) If, before the accused is arraigned, the full number of officers detailed are not available to serve by reason of non eligibility, disqualification, challenge or otherwise, and if there are not a sufficient number of officers in waiting to take the place of those unable to serve, the court shall ordinarily adjourn for purpose of fresh members being appointed, but if the court is of opinion that in the interests of justice, and for the good of the service, it is inexpedient so to adjourn, it may, if not reduced in number below the legal minimum, proceed, after recording their reasons for so doing.

(2) If the court adjourns for the purpose of the appointment of fresh members, whether under these rules or otherwise, the convening officer may, if he thinks fit, convene another court.

39. Ineligibility and disqualification of officers for court-martial.— (1) An officer is not eligible for serving on a court-martial if he is not subject to the Act.

(2) An officer is disqualified for serving on a general or district court-martial if he—
(a) is an officer who convened the court; or
(b) is the prosecutor or a witness for the prosecution; or
(c) investigated the charges before trial, or took down the summary of evidence, or was a member of a court of inquiry respecting the matters on which the charges
against the accused are founded, or was the squadron, battery, company, or other commander, who made preliminary inquiry into the case, or was a member of a previous court-martial which tried the accused in respect of the same offence; or
(d) is the commanding officer of the accused, or of the corps to which the accused belongs; or
(e) has a personal interest in the case.
(3) The provost-marshal or assistant provost-marshal is disqualified from serving on a general court-martial or district court-martial.

40. Composition of General Court-martial.— (1) A general court-martial shall be composed, as far as seems to the convening officer practicable, of officers of different corps or departments, and in no case exclusive of officers of the corps or department to which the accused belongs.

(2) The members of a court-martial for the trial of an officer shall be of a rank not lower than that of the officer unless, in the opinion of the convening officer, officers of such rank are not, having due regard to the exigencies of the public service, available. Such opinion shall be recorded in the convening order.

(3) In no case shall an officer below the rank of captain be a member of a court-martial for the trial of a field officer.

Procedure at Trial—Constitution of Court

41. Inquiry by court as to legal constitution.—(1) On the court-assembling, the order convening the court shall be laid before it together with the charge-sheet and the summary of evidence or a true copy thereof, and also the ranks, names and corps of the officers appointed to serve on the court; and the court shall satisfy itself that it is legally constituted; that is to say—
(a) that so far as the court can ascertain, the court has been convened in accordance with the provisions of the Act and these rules;
(b) that the court consists of a number of officers, not less than the minimum required by law and, save as mentioned in rule 38, not less than the number detailed;
(c) that each of the officers so assembled is eligible and not disqualified for serving on that court-martial; and
(d) that in the case of general court-martial, the officers are of the required rank.

(2) The court shall further, if it is a general or district court-martial to which a judge advocate has been appointed, ascertain that the judge-advocate is duly appointed and is not disqualified for sitting on that court-martial.
(3) The court, if not satisfied with regard to the compliance with the aforesaid provisions shall report its opinion to the convening authority, and may adjourn for that purpose.

42. Inquiry by court as to amenability of accused and validity of charge.— (1) If, the court is satisfied that the requirements of rule 41 have been complied with, it shall further satisfy itself in respect of each charge about to be brought before it—
(a) that it appears to be laid against a person subject to the Act, and subject to the jurisdiction of the court, and
(b) that each charge discloses an offence under the Act and is framed in accordance with these rules, and is so explicit as to enable the accused readily to understand what he has to answer.
(2) The court, if not satisfied on the above matters, shall report its opinion to the convening authority and may adjourn for that purpose.

Procedure at Trial—Challenge and Swearing

43. Appearance of prosecutor and accused.— When the court has satisfied itself that the provisions of rules 41 and 42 have been complied with, it shall cause the accused to be brought before the court, and the prosecutor, who must be a person subject to the Act, shall take his due place in the court.

44. Proceedings for challenges of members of court :—The order convening the court and the names of the presiding officer and the members of the court shall then be read over to the accused and he shall be asked, as required by section 130, whether he has any objection to being tried by any officer sitting on the court. Any such objection shall be disposed of in accordance with the provisions of the aforesaid section:
Provided that—
(a) the accused shall state the name of all the officers constituting the court in respect of whom he has objection, before any objection is disposed of,
(b) the accused may call any person to give evidence in support of his objection and such person may be questioned by the accused and by the court,
(c) if more than one officer is objected to, the objection to each officer shall be disposed of separately, and the objection in respect of the officers of the lowest in rank shall be disposed of first; and on an objection to an officer, the remaining officers of the court shall, in the absence of the challenged officer, vote on the disposal of such objection, notwithstanding that objections have also been made to any of those officers,
(d) when an objection in respect of an officer is allowed, that officer shall forthwith retire, and take no further part in the proceedings,
(e) when an officer so retires or is not available to serve owing to any cause, which
the court may deem to be sufficient, and there are any officers in waiting detailed as
such, the presiding officer shall appoint one of such officers to fill the vacancy. If
there is no officer in waiting available, the court shall proceed as required by rule
38.

(f) the eligibility, absence of disqualification, and freedom from objection of an
officer filling a vacancy shall be ascertained by the court, as in the case of other
officers appointed to serve on the court.

45. Swearing or affirming of members.—As soon as the court is constituted with
the proper number of officers who are not objected to, or objections in respect of
whom have been over-ruled, an oath or affirmation shall be administered to every
member in one of the following forms or in such other form to the same purport as
the court ascertains to be according to his religion or otherwise binding on his
conscience.

Form of Oath
“I .................. swear by Almighty God that I will well and truly try the accused (or
accused persons) before the Court according to the evidence, and that I will duly
administer justice according to the Army Act without partiality, favour or affection
and if any doubt shall arise, then, according to my conscience, the best of my
understanding and the custom of war in the like cases; and I do further swear that I
will not on any account at any time, whatsoever, disclose, or discover the vote or
opinion of any particular member of this court martial,
unless required to give evidence thereof by a court of justice or a court-martial in
due course of law”.

Form of Affirmation
“I do solemnly, sincerely and truly declare and affirm that I will well and truly try the
accused (or accused persons) before the Court according to the evidence, and that I
will duly administer justice according to the Army Act without partiality, favour or
affection; and if any doubt shall arise, then, according to my conscience, the best my
understanding, and the custom of war in the like cases; and I do further solemnly,
sincerely and truly declare and affirm that I will not, on any account at any time,
whatsoever, disclose or discover the vote or opinion of any particular member of this
court-martial, unless required to give evidence thereof by a court of justice or a
court-martial in due course of law”.

46. Swearing or affirming of judge-advocate and other officers.—After the
members of the court are all sworn or have made affirmation, an oath or affirmation
shall be administered to the following persons or such of them as are present at the court-martial, in such of the following forms as shall be appropriate, or in such other form to the same purport as the court ascertains to be according to the religion or otherwise binding on the conscience of the person to be sworn or affirmed:

(A) JUDGE ADVOCATE

Form of Oath
“I ................. swear by Almighty God that 1 will to the best of my ability carry out the duties of Judge Advocate in accordance with the Army Act, and the rules made thereunder and without partiality, favour or affection, and I do further swear that I will not on any account at anytime whatsoever, disclose or discover the vote or opinion on any matter of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or, a court-martial in due course of law.”

Form of Affirmation
“I ................... do solemnly, sincerely and truly declare and affirm that I will to the best of my ability carry out the duties of Judge Advocate in accordance with the Army Act and the rules made thereunder and without partiality, favour or affection, and I do further solemnly, sincerely and truly declare and affirm that I will not on any account at any time, whatsoever, disclose or discover the vote or opinion on any matter of any particular member of this court martial, unless required to give evidence thereof by a court of justice or a court-martial in due course of law.”

(B) OFFICER ATTENDING FOR THE PURPOSES OF INSTRUCTION

Form of Oath
“I ............................. swear by Almighty God that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court martial unless required to give evidence thereof by a court of justice or a court-martial, in due course of law.”

Form of Affirmation
“I ................. do solemnly, sincerely and truly declare and affirm that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial; unless required to give evidence thereof by a court of justice or a court-martial, in due course of law.”
(C) SHORTHAND WRITER

Form of Oath
“I ................ swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as I may be required, and will, when required, deliver to the court a true transcript of the same.”

Form of Affirmation
“I ................ do solemnly, sincerely and truly declare and affirm that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as I may be required, and will, when required, deliver to the court a true transcript of the same.”

(D) INTERPRETER

Form of Oath
“I ................ swear by Almighty God that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court-martial.”

Form of Affirmation
“I ................ do solemnly, sincerely and truly declare and affirm that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court martial.”

47. Persons to administer oaths and affirmations.—All oaths and affirmations shall be administered by the Judge-Advocate (if any), a member of the court, or some other person empowered by the Court to administer such oath or affirmation.

Prosecution, Defence and Summing-up

48. Arraignment of accused. — (1) After the members of the court and other persons are sworn or affirmed as abovementioned, the accused shall be arraigned on the charges against him.
(2) The charges upon which the accused is arraigned shall be read and, if necessary, translated to him, and he shall be required to plead separately to each charge.

49. Objection by accused to charge.— The accused, when required to plead to any charge, may object to the charge on the ground that it does not disclose an offence under the Act, or is not in accordance with these rules. The court after hearing any submission which may be made by the prosecutor or by or on behalf of the accused, shall consider the objection in closed court and shall either disallow it and proceed with the trial, or allow it and adjourn to report to the convening authority or, if it is in doubt, it may adjourn to consult the convening authority.
50. **Amendment of charge.**—(1) At any time during the trial, if it appears to the court that there is any mistake in the name or description of the accused in the charge-sheet, the court may amend the charge-sheet so as to correct that mistake.  
(2) If, on the trial of any charge, it appears to the court at any time before it has begun to examine the witnesses, that in the interest of justice any addition to, omission from, or alteration in, the charge is required, it may report its opinion to the convening authority, and may, adjourn and the convening authority may either direct the new trial to be commenced, or amend the charge, and order the trial to proceed with such amended charge after due notice to the accused.

51. **Special plea to the jurisdiction.**—(1) The accused, before pleading to a charge, may offer a special plea to the general jurisdiction of the court, and if he does so, and the court considers that anything stated in such plea shows that the court has no jurisdiction it shall receive any evidence offered in support, together with any evidence offered by the prosecutor in disproof or qualification thereof, and any address by or on behalf of the accused and reply by the prosecutor in reference thereto.  
(2) If the court overrules the special plea, it shall proceed with the trial.  
(3) If the court allows the special plea, it shall record its decision, and the reasons for it, and report it to the convening authority and adjourn; such decision, shall not require any confirmation and the convening authority shall either forthwith convene another court for the trial of the accused, or order the accused to be released.  
(4) If the court is in doubt as to the validity of the plea, it may refer the matter to the convening authority, and may adjourn for that purpose or may record a special decision with respect to such plea, and proceed with the trial.

52. **General plea of “guilty” or “not guilty”.**—(1) If no special plea to the general jurisdiction of the court is offered, or if such plea being offered, is overruled, or is dealt with by a special decision under sub-rule (4) of rule 51, the accused person’s plea ‘Guilty” or “Not guilty” (or if he refuses to plead, or does not plead intelligibly either one or other a plea of “Not guilty”) shall be recorded on each charge.  
(2) If an accused person pleads “Guilty”, that plea shall be recorded as the finding of the court; but before it is recorded, the presiding officer or judge advocate on behalf of the court, shall ascertain that the accused understands the nature of the charge to which he has pleaded guilty and shall inform him of the general effect of that plea, and in particular of the meaning of the charge to which he has pleaded guilty, and of the difference in procedure which will be made by the plea of guilty, and shall advise him to withdraw that plea if it appears from the summary of evidence that the accused ought to plead “Not guilty”.
(2A) Where an accused pleads Guilty, such plea and the factum of compliance of sub-rule (2) of this rule, shall be recorded by the court in the following manner:—

Before recording the plea of Guilty of the accused, the court explained to the accused the meaning of the charge(s) to which he had pleaded Guilty and ascertained that the accused had understood the nature of the charge(s) to which he had pleaded Guilty. The court also informed the accused the general effect of the plea and the difference in procedure, which will be followed consequent to the said plea. The court having satisfied itself that the accused understands the charge(s) and the effect of his plea of Guilty accepts and records the same. The provisions of rule 52 (2) are thus complied with.

(3) Where an accused person pleads “Guilty” to the first of two or more charges laid in the alternative, the prosecutor may, after sub-rule (2) has been complied with by the court and before the accused is arraigned on the alternative charge or charges, withdraw such alternative charge or charges without requiring the accused to plead thereto and a record to that effect shall be made upon the proceedings of the court.

(4) A plea of “Guilty” shall not be accepted in cases where the accused is liable, if convicted to be sentenced to death, and where such plea is offered, a plea of “Not Guilty” shall be recorded and the trial shall proceed accordingly.

53. Plea in bar.—(1) The accused, at the time of his general plea of “Guilty” or “Not Guilty” to a charge for an offence, may offer a plea in bar of trial on the ground that—

(a) he has been previously convicted or acquitted of the offence by a competent criminal court or by a court-martial, or has been dealt with summarily under sections 80, 83, 84 and 85, as the case may be, for the offence, or that a charge in respect of the offence has been dismissed as provided in sub-rule (2) of rule 22; or
(b) the offence has been pardoned or condoned by competent military authority; or
(c) the period of limitation for trial as laid down in section 122 has expired.

(2) If he offers such plea in bar, the court shall record it as well as his general plea, and if it considers that any fact or facts stated by him are sufficient to support the plea in bar, it shall receive any evidence offered, and hear any address made by or on behalf of the accused and the prosecutor in reference to the plea.

(3) If the court finds that the plea in bar is proved, it shall record its finding, and notify it to the confirming authority, and shall either adjourn, or if there is any other charge against the accused, whether in the same or in a different charge-sheet, which is not affected by the plea in bar, may proceed with the trial of the accused on that charge.
(4) If the finding that the plea in bar is proved is not confirmed, the court may be reassembled by the confirming authority, and proceed as if the plea had been found not proved.

(5) If the court finds that the plea in bar is not proved, it shall proceed with the trial, and the said findings shall be subject to confirmation like any other finding of the court.

54. Procedure after plea of “Guilty”.— (1) Upon the record of the plea of “Guilty”, if there are other charges in the same charge-sheet to which the plea is “Not Guilty”, the trial shall first proceed with respect to the latter charges, and after the finding on those charges, shall proceed with the charges on which a plea of “Guilty” has been entered, but if they are alternative charges, the court may either proceed with respect to all the charges as if the accused had not pleaded “Guilty” to any charge or may subject to sub-rule (2), instead of trying him, record a finding of “Guilty” upon any one of the alternative charges to which he has pleaded “Guilty” and a finding of “Not Guilty” upon all the other alternative charges.

(2) Where alternative charges are preferred and the accused pleads “Not Guilty” to the charge which alleges the more serious offence and “Guilty” to the other, the court shall try him as if he had pleaded “Not guilty” to all the charges.

(3) After the record of the plea of “Guilty” on a charge (if the trial does not proceed on any other charges) the court shall receive any statement which the accused desires to make in reference to the charge, and shall read the summary of evidence, and annex it to the proceedings or if there is no such summary shall take and record sufficient evidence to enable it to determine the sentence and the confirming officer to know all the circumstances connected with the offence. This evidence shall be taken in the manner provided in these rules in the case of plea of “Not Guilty”.

(4) After evidence has been so taken, or the summary of evidence has been read, as the case may be, the accused may make a statement in mitigation of punishment, and may call witnesses as to his character.

(5) If from the statement of the accused or from the summary of evidence, or otherwise, it appears to the court that the accused did not understand the effect of his plea of “Guilty”, the court shall alter the record and enter a plea of “Not Guilty”, and proceed with the trial accordingly.

(6) If a plea of “Guilty” is recorded, and the trial proceeds with respect to other charges in the same charge-sheet, the proceedings under sub-rule (3) and (4) shall take place when the findings on the other charges in the same charge-sheet are recorded.
(7) When the accused states anything in mitigation of punishment which in the opinion of the court requires to be proved, and would, if proved, affect the amount of punishment, the court may permit the accused to call witnesses to prove the same.

55. Withdrawal of plea of “Not Guilty” subject to compliance with sub-rules (2) and (4) of Rule 52.—The accused may, if he thinks fit, at any time during the trial, withdraw his plea of “Not Guilty” and plead “Guilty”, and in such case the court will at once, subject to a compliance with sub-rules (2) and (4) of rule 52, record a plea and finding of “Guilty” and shall so far as is necessary, proceed in manner directed by rule 54.

56. Plea of “Not Guilty”, application for adjournment, and case for the prosecution.— After the plea of “Not Guilty” to any charge is recorded, the trial shall proceed as follows, that is to say:—

(1) the court shall ask the accused whether he wishes to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that he has been prejudiced thereby or on the ground that he has not had sufficient opportunity for preparing his defence, and shall record his answer;

(2) if the accused shall make any such application, the court shall hear any statement of evidence which he may desire to adduce in support thereof, and any statement of the prosecutor or evidence in answer thereto; and if it shall appear to the court that the accused has been prejudiced by any non-compliance with any of such rules relating to procedure or that he has not had sufficient opportunity of preparing his defence, it may grant such adjournment as may appear to it in the circumstances to be proper;

(3) the prosecutor may, if he desires and shall, if so required by the court make an opening address, and shall state therein the substance of the charge against the accused and the nature and general effect of the evidence which he proposes to adduce in support of it without entering into any unnecessary detail;

(4) the evidence for the prosecution shall then be taken;

(5) if it should be necessary for the prosecutor to give evidence for the prosecution on the facts of the case, he shall give it after the delivery of his address (if any), and he must be sworn or affirmed, as the case may be, and give his evidence in detail; and

(6) he may be cross-examined by or on behalf of the accused and afterwards may make any statement which might be made by a witness on re-examination.

57. Plea of no case.—(1) At the close of the case for the prosecution, the accused may
offer a plea that the evidence given on behalf of the prosecution, in respect of any
one or more charges, has not established a prima-facie case against him and that he
should not, therefore be called upon to make his defence to that charge or charges.
(2) Where the accused takes such a plea, the prosecutor may address the court in
answer thereto and the accused may reply.
(3) The court shall consider the plea in closed court and shall not allow the plea
unless satisfied that :
(a) the prosecution has not established a prima-facie case on the charge or charges
as laid; and
(b) it is not open to it on the evidence adduced to make a special finding either
under section 139 or sub-rule (4) of rule 62.
(4) If the court allows the plea, it shall record a finding of “Not Guilty” on the charge
or charges, to which the plea relates, and shall announce the finding forthwith in
open court as subject to confirmation.
(5) If the court over rules the plea, it shall proceed with the trial.
(6) If the court has any doubt as to the validity of the plea, it may refer the matter to
the convening authority, and adjourn for that purpose.
(7) The court may, of its own motion, after the close of the case for the prosecution,
and after hearing the prosecutor find the accused “Not Guilty” of the charge, and
announce the finding forthwith in open court as subject to confirmation.
(8) The court shall record brief reasons while arriving at the finding on the plea, in
accordance with sub-rule (1) of rule 62.

58. Examination of the accused and defence witnesses.—(1) (a) In every trial, for
the purpose of enabling the accused personally to explain any circumstances
appearing in evidence against him, the court or the Judge Advocate:—
(i) may at any stage, without previously warning the accused, put such questions to
him as considers necessary;
(ii) shall, after the close of the case for the prosecution and before he is called on for
his defence, question him generally on the case.
(b) No oath shall be administered to the accused when he is examined under clause
(a).
(c) The accused shall not render himself liable to punishment by refusing to answer
questions referred in clause (a) above, or by giving answers to them which he knows
not to be true.
(2) After the close of the case for the prosecution, the presiding officer or the judge
advocate, if any, shall explain to the accused that he may make an unsworn
statement, orally or in writing, giving his account of the subject of the charge(s)
against him or if he wishes, he may give evidence as a witness, on oath or
affirmation, in disproof of the charge (s) against him or any person charged together
with him at the same trial:—

Provided that —
(a) he shall not be called as a witness except on his own request in writing;
(b) his failure to give evidence shall not be made the subject of any comment by any
of the parties or the court or give rise to any presumption against himself or any
person charged together with him at the same trial;
(c) if he gives evidence on oath or affirmation, he shall be examined as first witness
for defence and shall be liable to be cross-examined by the prosecutor and to be
questioned by the court.
(3) The accused may then call his witnesses including, if he so desires, any
witnesses as to character. If the accused intends to call witnesses as to the facts of
the case other than himself, he may make an opening address before the evidence
for defence is given.

59. Closing Addresses.—After the examination of the witnesses, the prosecutor
may make a closing address and the accused or his counsel or the defending officer,
as the case may be, shall be entitled to reply;
Provided that where any point of law is raised by the accused, the prosecutor may,
with the permission of the court, make his submission with regard to that point.


60. Summing up by the judge-advocate.—(l) The judge-advocate (if any) shall sum
up in open court the evidence and advise the court upon the law relating to the case.
(2) After the summing up of the judge-advocate, no other address shall be allowed.

Finding and sentence

61. Consideration of finding.—(1) The court shall deliberate on its finding in
closed court in the presence of the judge-advocate.
(2) The opinion of each member of the court as to the finding shall be given by word
of mouth on each charge separately.

62. Form, record and announcement of finding. —(1) The finding on every
charge upon which the accused is arraigned shall be recorded and, except as
provided in these rules, shall be recorded as finding of ‘Guilty’ or ‘Not Guilty’. After
recording the finding on each charge, the court shall give brief reasons in support
thereof. The judge advocate or, if there is none, the presiding officer shall record or
cause to be recorded such brief reasons in the
proceedings. The above record shall be signed and dated by the presiding officer and
the judge advocate, if any.
(2) Where the court is of opinion as regards any charge that the facts proved do not disclose the offence charged or any offence of which he might under the Act legally be found guilty on the charge as laid, the court shall acquit the accused of that charge.

(3) If the court doubts as regards any charge whether the facts proved show the accused to be guilty or not of the offence charged or of any offence of which he might under the Act legally be found guilty on the charge as laid, it may, before recording a finding on that charge, refer to the confirming authority for an opinion, setting out the facts which it finds to be proved, and may if necessary, adjourn for that purpose.

(4) Where the court is of opinion as regards any charge that the facts which it finds to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge, but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, it may, instead of a finding of “Not guilty”, record a special finding.

(5) The special finding may find the accused guilty on a charge subject to the statement of exceptions or variations specified therein.

(6) Where there are alternative charges, and the facts proved appear to the court not to constitute the offence mentioned in any of those alternative charges, the court shall record a finding of “Not Guilty” on that charge.

(7) The court shall not find the accused guilty on more than one of two or more charges laid down in the alternative, even if conviction upon the charge necessarily connotes guilty upon the alternative charge or charges.

(8) If the court thinks that the facts proved constitute one of the offences stated in two or more of the alternative charges, but doubts which of those offences the facts do at law constitute, it may, before recording a finding on those charges, refer to the confirming authority for an opinion, setting out the facts which it finds to be proved and stating that it doubts whether those facts constitute in law the offence stated in such one or other of the charges and may, if necessary, adjourn for that purpose.

(9) In any case where the court is empowered by section 139 to find the accused guilty of an offence other than that charged, or guilty of committing an offence in circumstances involving a less degree of punishment, or where it could, after hearing the evidence, have made a special finding of guilty subject to exceptions or variations in accordance with sub rules (4) and (5) it may, if it is satisfied of the justice of such course, and if the concurrence of the convening officer is signified by the prosecutor, accept and record a plea of guilty of such other offences or of the offence as having been committed in circumstances involving such less degree of punishment or of the offence charged subject to such exceptions or variations:
Provided that failure to obtain the concurrence of the convening officer as aforesaid shall not invalidate the proceedings when confirmed notwithstanding such failure.

(10) The finding on each charge shall be announced forthwith in open court as subject to confirmation.

63. **Procedure on acquittal.**— If the finding on all the charges is “Not Guilty”, the presiding officer shall date and sign the finding and such signature shall authenticate the whole of the proceedings, and the proceedings upon being signed by the judge-advocate (if any) shall be at once transmitted for confirmation.

64. **Procedure on conviction.**— (1) If the finding on any charge is “Guilty” then, for the guidance of the court in determining its sentence, and of the confirming authority in considering the sentence, the court, before deliberating on its sentence, shall, whenever possible, take evidence of and record the general character, age, service, rank and any recognised acts of gallantry or distinguished conduct of the accused, any previous convictions of the accused either by a court-martial or a criminal court, any previous punishments awarded to him by an officer exercising authority under sections 80, 83, 84 or 85, as the case may be, the length of time he has been in arrest or in confinement on any previous sentence, and any military decoration, or military reward, of which he may be in possession or to which he is entitled.

(2) Evidence on the above matters may be given by a witness verifying a statement which contains a summary of the entries in the regimental books respecting the accused and identifying the accused as the person referred to in that summary.

(3) The accused may cross-examine any such witness, and may call witnesses to rebut such evidence; and if the accused so requests, the regimental books, or a duly certified copy of the material entries therein, shall be produced; and if the accused alleges that the summary is in any respect not in accordance with the regimental books, or such certified copy, as the case may be, the court shall compare the summary with those books or copy, and if it finds it is not in accordance there-with, shall cause the summary to be corrected.

(4) When all the evidence on the above matters has been given, the accused may address the court thereon and in mitigation of punishment.

65. **Sentence.**— The court shall award a single sentence in respect of all the offences of which the accused is found guilty and such sentence shall be deemed to be awarded in respect of the offence in each charge in respect of which it can be legally given and not to be awarded in respect of any offence in a charge in respect of which it cannot be legally given.

66. **Recommendation to mercy.**—(1) If the court makes a recommendation to mercy, it shall give its reasons for its recommendation.
(2) The number of opinions by which the recommendation to mercy mentioned in this rule, or any question relative thereto, is adopted or rejected, may be entered in the proceedings.

67. Announcement of sentence and signing and transmission of proceedings.—
(1) The sentence together with any recommendation to mercy and the reasons for any such recommendation will be announced forthwith in open court. The sentence will be announced as subject to confirmation.
(2) Upon the court awarding the sentence, the presiding officer shall date and sign the sentence and such signature shall authenticate the whole of the proceedings and the proceedings upon being signed by the Judge-Advocate (if any), shall at once be transmitted for confirmation.

Confirmation and Revision

68. Revision.—(1) Where the finding is sent back for revision under section 160, the court shall re-assemble in open court, the revision order shall be read, and if the court is directed to take fresh evidence, such evidence shall also be taken in open court.
(2) Except where the court is directed to take fresh evidence, no fresh evidence shall be adduced.
(3) The court may, on a request from the prosecutor, in the interest of justice, allow a witness to be called or re-called for the purpose of rebutting any material statement made by a witness for the defence during revision.
(4) After the revision order has been read in open court, whether the revision is of finding or sentence and the evidence, if any, in accordance with sub-rules (1), (2) and (3) has been taken, the prosecutor and the accused shall be given a further opportunity to address the court in the order as laid down in rule 59. If necessary, the judge-advocate, if any, may sum up the (additional) evidence and advise the court upon the law relating to the case. The court shall then deliberate on its finding or the sentence, as the case may be, in closed court.
(5) Where the finding is sent back for revision and the court does not adhere to its former finding, it shall revoke the finding and sentence, and record the new finding, in the manner laid down in rule 62, and if such new finding involves a sentence, pass sentence afresh after complying with rule 64.
(6) Where the sentence alone is sent back for revision, the court shall not revise the finding.
(7) After the revision, the presiding officer shall date and sign the decision of the court, and the proceedings, upon being signed by the judge-advocate, if any, shall at once be transmitted for confirmation.
69. Review of court-martial proceedings.— The proceedings of a general court-martial shall be submitted by the judge-advocate at the trial for review to the deputy or assistant judge-advocate general of the command who shall then forward it to the confirming officer. The proceedings of a district court-martial shall be sent by the presiding officer or the judge advocate direct to the confirming officer who must, in all cases, where the sentence is dismissal or above, seek advice of the deputy or assistant judge-advocate general of the command before confirmation.

70. Confirmation.— Upon receiving the proceedings of a general or district court martial, the confirming authority may confirm or refuse confirmation or, reserve confirmation for superior authority, and the confirmation, non-confirmation, or reservation shall be entered in and form part of the proceedings.

71. Promulgation.— The charge, finding, and sentence, and any recommendation to mercy shall, together with the confirmation or non-confirmation of the proceedings, be promulgated in such manner as the confirming authority may direct; and if no direction is given, according to the custom of the service. Until promulgation has been effected, confirmation is not complete and the finding and sentence shall not be held to have been confirmed until they have been promulgated.

72. Mitigation of sentence on partial confirmation.— (1) Where a sentence has been awarded by a court-martial in respect of offences in several charges, and the confirming authority confirms the finding on some but not on all of such charges, that authority shall take into consideration the fact of such non-confirmation and shall, if it seems just, mitigate, remit, or commute the punishment awarded accordingly as it seems just, having regard to the offences in the charges in respect of the findings which are confirmed.

(2) Where a sentence has been awarded by a court-martial in respect of offences in several charges and has been confirmed, and anyone of such charges or the finding thereon is found to be invalid, the authority having power to mitigate, remit, or commute the punishment awarded by the sentence shall take into consideration the fact of such invalidity and if it seems just, mitigate, remit or commute the punishment awarded accordingly as it seems just, having regard to the offences in the charges on which the findings thereon are not invalid, and the punishment as so modified shall be as valid as if it had been originally awarded only in respect of those offences.

73. Confirmation notwithstanding informality in or excess of punishment.— If the sentence of a court-martial is informally expressed, the confirming authority may, in confirming the sentence, vary the form so that it shall be properly expressed; and if the punishment awarded by the sentence is in excess of the
punishment authorised by law, the confirming authority may vary the sentence so
that the sentence shall not be in excess of the punishment authorised by law; and
the confirming authority may confirm the finding and the sentence, as so varied, of
the court-martial.

74. Member or prosecutor not to confirm proceedings. — A member of a court-
martial, or an officer who has acted as a prosecutor at a court-martial shall not
confirm the finding or sentence of that court-martial and where such member or
prosecutor becomes confirming officer, he shall refer the finding and the sentence of
the court-martial to a superior authority competent to confirm the findings and
sentences of the like description of court-martial.

Proceedings of General and District Court-Martial

75. Seating of members.— The members of a court-martial shall take their seats
according to their army rank.

76. Responsibility of presiding officer.— (1) The presiding officer is responsible
for the trial being conducted in proper order and in accordance with the Act, rules
made thereunder and in a manner befitting a court of justice.

(2) It is the duty of the presiding officer to see that justice is administered, that the
accused has a fair trial, and that he does not suffer any disadvantage in
consequence of his position as a person under trial, or of his ignorance, or of his
incapacity to examine or cross examine witnesses or otherwise.

77. Power of court over address of prosecutor and accused. — (1) It is the duty of
the prosecutor to assist the court in the administration of justice, to behave
impartially, to bring the whole of the transaction before the court, and not to take
any unfair advantage of, or suppress any evidence in favour of, the accused.

(2) The prosecutor may not refer to any matter, not relevant to the charge or
charges then before the court, and it is the duty of the court to stop him from so
doing and also restrain any undue violence of language or want of fairness or
moderation on the part of the prosecutor.

(3) The court shall allow great latitude to the accused in making his defence; he
must abstain from any remarks contemptuous or disrespectful towards the court,
and from coarse and insulting language towards others, but he may for the
purposes of his defence impeach the evidence and the motives of the witnesses and
the prosecutor, and charge other persons with blame and even criminality, subject,
if he does so, to any liability which he may thereby incur. The court may caution the
accused as to the irrelevance of his defence, but shall not, unless in special cases,
stop his defence solely on ground of such irrelevance.
78. Procedure on trial of accused persons together.— Where two or more accused persons are tried together and any evidence as to the facts of the case is tendered by anyone or more of them, the evidence and addresses on the part of or on behalf of all the accused persons shall be taken before the prosecutor replies, and the prosecutor shall make one address only in reply as regards all the accused persons.

79. Separate charge-sheets.— (1) The convening officer may direct any charges against an accused person to be inserted in different charge-sheets, and when he so directs, the accused shall be arraigned and until after the finding tried, upon each charge-sheet separately, and the procedure in rules 48 to 62, both inclusive, shall, until after finding, be followed in respect of each charge-sheet, as if it contained the whole of the charges against the accused.

(2) The trials upon the several charge-sheets shall be in such order as the convening officer directs.

(3) When the court have tried the accused upon all the charge-sheets they shall, in the case of the finding being “Not guilty” on all the charges, proceed as directed by rule 63, and in case of the finding on any one more of the charges being “Guilty” proceed as directed by rules 54 and 64 to 67, both inclusive, in like manner in each case as if all the charges in the different charge-sheets had been contained in one charge-sheet, and the sentence passed shall be of the same effect as if all the charges had been contained in one charge-sheet.

(4) If the convening officer directs that in the event of the conviction of an accused person upon a charge in any charge-sheet, he need not be tried upon the subsequent charge-sheets, the court in such event may, without trying the accused upon any of the subsequent charge-sheets, proceed as provided in sub-rule (3).

(5) Where a charge-sheet contains more than one charge, the accused may, before pleading, claim to be tried separately in respect of any charge or charges in that charge sheet, on the ground that he will be embarrassed in his defence if he is not so tried separately; and in such case the court, unless they think his claim unreasonable, shall arraign and try the accused in like manner as if the convening officer had inserted the said charge or charges in different charge-sheets.

(6) If a plea of “Guilty”, to any charge in a charge-sheet has been recorded as the finding of the court, the provisions of sub-rules (3) and (4) of rule 54 shall not be complied with until after the court had arrived at its findings on all the charge-sheets.

80. Sitting in closed court.— (1) A court-martial shall, where it is so directed by these rules, and may in any other case on any deliberation amongst the members, sit in closed court.
(2) No person shall be present in closed court except the members of the court, the judge-advocate (if any) and any officers under instruction.

(3) For the purpose of giving effect to the foregoing provisions of this rule, the court martial may either retire or cause the place where they sit to be cleared of all other persons not entitled to be present.

(4) Except as hereinbefore mentioned all proceedings, including the view of any place, shall be in open court and in the presence of the accused subject to sub-rule (5).

(5) The court shall have the power to exclude from the court any witness who has yet to give evidence or any other person, other than the accused, who interferes with its proceedings.

80. A Courts Martial to be public.— Subject to rule 80, the place in which a court martial is held for the purpose of trying an offence under the Act shall be deemed to be an open court to which the public generally may have access, so far as the same can conveniently contain them;

Provided that, if the court is satisfied that it is necessary or expedient in the public interest or for the ends of justice so to do, the court may at any stage of the trial of any particular case order that the public generally or any portion thereof or any particular person shall not have access to, or be or remain in the place in which the court is held.

81. Hours of sitting.— (1) A court-martial may sit at such times and for such period between the hours of six in the morning and six in the afternoon as may be directed by the proper superior military authority, and so far as no such direction extends, as the court from time to time determines but no court shall sit for more than six hours in any one day.

(2) If the court consider it necessary to continue the trial after six in the afternoon or to sit for more than six hours in any one day, it may do so but if it does so, should record in the proceedings the reason for so doing.

(3) In cases requiring an immediate example or when the convening officer certifies under his hand that it is expedient for the public service, trials may be held at any hour.

(4) If the court or the convening officer or other superior military authority thinks that military exigencies or the interests of discipline require the court to sit on Sunday or on any other day declared as a holiday in Army or Command Orders, the court may sit accordingly, but otherwise the court shall not sit on any of those days.

82. Continuity of trial and adjournment of court.— (1) When a court is once assembled and the accused has been arraigned, the court shall continue the trial from day to day, in accordance with rule 81, unless it appears to the court that an
adjournment is necessary for the ends of justice or that such continuance is impracticable.

(2) A court may adjourn from time to time and from place to place and may, when necessary, view any place.

(3) The senior officer on the spot may also, for military exigencies, adjourn or prolong the adjournment of the court.

(4) A court-martial, in the absence of a judge-advocate (if such has been appointed for that court-martial) shall not proceed, and shall adjourn.

(5) If the time to which an adjournment is made is not specified, the adjournment shall be until further orders from the proper military authority; and, if the place to which an adjournment is made, is not specified, the adjournment shall be to the same place or to such other place as may be specified in further orders from the proper military authority.

83. Suspension of trial.—(1) Where, in consequence of anything arising while the court is sitting, the court is unable by reason of dissolution as specified in section 117, or otherwise, to continue the trial, the presiding officer or, in his absence, the senior member, present, will immediately report the facts to the convening authority.

(2) Where a court-martial is dissolved before the finding, or, in case of a finding of guilty, before award of the sentence, the entire proceedings before the court-martial shall be null and the accused may be tried before another court-martial.

84. Proceedings on death or illness of accused.—In case of the death of the accused, or of such illness of the accused as renders it impossible to continue the trial, the court shall ascertain the fact of the death or illness by evidence, and record the same and adjourn, and transmit the proceedings to the convening authority.

85. Death, retirement or absence of presiding officer.—In the case of the death, retirement on challenge or unavoidable absence of the presiding officer, the next senior officer shall take the place of the presiding officer and the trial shall proceed if the court is still composed of not less than the minimum number of officers of which it is required by law to consist.

86. Presence throughout of all members of court.—(1) A member of a court who has been absent while any part of the evidence on the trial of an accused person is taken, shall take no further part in the trial by that court of that person, but the court will not be affected unless it is reduced below the legal minimum.

(2) An officer shall not be added to a court-martial after the accused has been arraigned.

87. Taking of opinions of members of court.—(1) Every member of a court must give his opinion by word of mouth on every question which the court has to decide,
and must give his opinion as to the sentence, notwithstanding that he has given his opinion in favour of acquittal.

(2) The opinion of the members of the court shall be taken in succession, beginning with the member lowest in rank.

88. Procedure on incidental questions.— If any objection is raised on any matter of law, evidence, or procedure by the prosecutor or by or on behalf of the accused during the trial, the prosecutor or the accused or counsel or the defending officer (as the case may be) shall have a right to answer the same and the person raising the objection shall have a right of reply.

89. Swearing of court to try several accused persons.— (1) A court may be sworn or affirmed at one time to try any number of accused persons then present before it, whether those persons are to be tried collectively or separately, and each accused person shall have power to object to the members of the court, and shall be asked separately whether he objects to any member.

(2) In the case of several accused persons to be tried separately, the court, upon one of those persons objecting to a member, may, according as it thinks fit, proceed to determine that objection or postpone the case of that person and swear or affirm the members of the court for the trial of the others alone.

(3) In the case of several accused persons to be tried separately, the court when sworn or affirmed shall proceed with one case postponing the other cases, and taking them afterwards in succession.

(4) Where several accused persons are tried separately by the same court upon charges arising out of the same transaction, the court may, if it considers it to be desirable in the interests of justice postpone consideration of any sentence to be awarded to any one or more of such accused persons until the trials of all such accused persons have been completed.

90. Swearing of interpreter and shorthand writer.— (1) At any time during the trial an impartial person may, if the court thinks it necessary and shall, if either the prosecutor or the accused requests it on any reasonable ground, be sworn or affirmed to act as interpreter.

(2) An impartial person may at any time of the trial if the court thinks it desirable, be sworn or affirmed to act as a shorthand writer.

(3) Before a person is sworn or affirmed as an interpreter or shorthand writer the accused shall be informed of the person who is proposed to be sworn or affirmed, and may object to the person as not being impartial or for any reasonable course; and the court, if it thinks that the objection is reasonable, shall not swear or affirm that person as interpreter or shorthand writer.
91. Evidence when to be translated.— When any evidence is given in a language which any of the officers composing the court, the judge-advocate, the prosecutor or the accused, or his defending officer or counsel does not understand, that evidence shall be interpreted to such officer or person in a language which he does understand. If an interpreter in such language has been appointed by the convening officer, and duly sworn or affirmed, the evidence shall be interpreted by him. If no such interpreter has been appointed and sworn or affirmed, an impartial person shall be sworn or affirmed by the court as required by rule 90. When documents are put in for purpose of formal proof, it shall be in the discretion of the court to cause as much to be interpreted as appears necessary.

92. Record in proceedings of transactions of court-martial.— (1) At a court martial the judge-advocate, or if there is none, the presiding officer shall record, or cause to be recorded [in the Hindi or English language]¹ all transactions of that court, and shall be responsible for the accuracy of the record ( in these rules referred to as the proceedings) and if the judge-advocate is called as a witness by the accused, the presiding officer shall be responsible for the accuracy of the record in the proceedings of the evidence of the judge advocate.

(2) The evidence shall be taken down in a narrative form in as nearly as possible the words used, but in any case where the prosecutor, the accused person, the judge-advocate, or the court considers it material, the question and answer shall be taken down verbatim.

(3) Where an objection has been taken to any question or to the admission of any evidence or to the procedure of the court, such objection shall, if the prosecutor or accused so requests or the court thinks fit, be entered upon the proceedings together with the grounds of the objection and the decision of the court thereon.

(4) Where any address by, or on behalf of, the prosecutor or the accused, is not in writing, it shall not be necessary to record the same in the proceedings further or otherwise than the court thinks proper, except that—

(a) the court shall in every case make such record of the defence made by the accused as will enable the confirming officer to judge the reply made by, or on behalf of, the accused to each charge against him; and

(b) the court shall also record any particular matters in the address by or on behalf of, the prosecutor or the accused which the prosecutor or the accused, as the case may be, may require.

(5) The court shall not enter in the proceedings any comment or anything not before the court, or any report of any fact not forming part of the trial, but if any such comment or report seems to the court necessary, the court may forward it to the proper military authority in a separate document, signed by the presiding officer.
93. Custody and inspection of proceedings.— The proceedings shall be deemed to be in the custody of the judge-advocate (if any), or, if there is none, of the presiding officer but may, with proper precaution for their safety, be inspected by the members of the court, the prosecutor and accused, respectively, at all reasonable time before the court is closed to consider the finding.

94. Transmission of proceedings after finding.— The proceedings shall be at once sent by the person having the custody thereof to such person as may be directed by the order convening the court, or, in default of any such direction, to the confirming officer.

Defending Officer, Friend of Accused and Counsel

95. Defending Officer and friend of accused.— (1) At any general or district court martial, an accused person may be represented by any officer subject to the Act who shall be called “the defending officer” or assisted by any person whose services he may be able to procure and who shall be called “the friend of the accused”.

(2) It shall be the duty of the convening officer to ascertain whether an accused person desires to have a defending officer assigned to represent him at his trial and if he does so desire, the convening officer shall use his best endeavours to ensure that the accused shall be so represented by a suitable officer. If owing to military exigencies, or for any other reason, there shall in the opinion of the convening officer, be no such officer available for the purpose, the convening officer shall give a written notice to the presiding officer of the court-martial, and such notice shall be attached to the proceedings.

(3) The defending officer shall have the same rights and duties as appertain to counsel under these rules and shall be under the like obligations.

(4) The friend of the accused may advise the accused on all points and suggest the questions to be put to the witnesses, but he shall not examine or cross-examine the witnesses or address the court.

96. Counsel allowed in general and district courts-martial.— In every general and district court-martial, counsel shall be allowed to appear on behalf of the prosecutor as well as the accused:

Provided that convening officer may declare that it is not expedient to allow the appearance of counsel thereat and such declaration may be made as regards all general and district courts-martial held in any particular place, or as regards any particular general or district court-martial, and may be made subject to such reservation as to cases on active service, or otherwise, as deemed expedient.

97. Requirements for appearance of counsel.— (1) An accused person intending to be represented by a counsel shall give to his commanding officer or to the
convening officer the earliest practicable notice of such intention and, if no sufficient notice has been given, the court may, if it thinks fit, on the application of the prosecutor, adjourn to enable him to obtain a counsel on behalf of the prosecutor at the trial.

(2) If the convening officer so directs, counsel may appear on behalf of the prosecutor, but in that case, unless the notice referred to in sub-rule (1) has been given by the accused, notice of the direction for counsel to appear shall be given to the accused at such time (not in any case less than seven days) before the trial, as would, in the opinion of the court, have enabled the accused to obtain counsel to assist him at the trial.

(3) The counsel, who appears before a court-martial on behalf of the prosecutor or accused, shall have the same right as the prosecutor or accused for whom he appears, to call, and orally examine, cross-examine, and re-examine witnesses, to make an objection or statement, to address the court, to put in any plea, and to inspect the proceedings, and shall have the right otherwise to act in the course of the trial in the place of the person on whose behalf he appears, and he shall comply with these rules as if he were that person and in such case that person shall not have the right himself to do any of the aforesaid matters except as regards the statement allowed by clause (a) of sub-rule (2) of rule 58 and clause (b) of rule 59 or except so far as the court permits him so to do.

(4) When counsel appears on behalf of the prosecutor, the prosecutor, if called as a witness, may be examined and re-examined as any other witness and sub-rules (5) and (6) of rule 56 shall not apply.

98. Counsel for prosecution.— The counsel appearing on behalf of the prosecutor shall have the same duty as the prosecutor, and is subject to be stopped or restrained by the court in the manner provided in sub-rule (2) of rule 77.

99. Counsel for accused.—The counsel appearing on behalf of the accused has the like rights, and is under the like obligations as are specified in sub-rule (3) of rule 77 in the case of the accused.

100. General rules as to counsel.— Counsel, whether appearing on behalf of the prosecutor or of the accused, shall conform strictly to these rules and to the rules of criminal courts in India relating to the examination, cross-examination, and re-examination of witnesses, and relating to the duties of a counsel.

101. Qualifications of counsel.— (1) Neither the prosecutor nor the accused has any right to object to any counsel if properly qualified.

(2) Counsel shall be deemed properly qualified if he is a legal practitioner authorised to practice with right of audience in a Court of Sessions in India, or if, he is recognised by the convening officer in any other country where the trial is held as
having in that part, rights and duties similar to those of such legal practitioner in India and as being subject to punishment or disability for a breach of professional rules.

**Judge-Advocate**

102. **Disqualification of judge-advocate.**— An officer who is disqualified for sitting on a court-martial, shall be disqualified for acting as a judge advocate at that court-martial.

103. **Invalidity in the appointment of judge-advocate.**— A court-martial shall not be invalid merely by reasons of any invalidity in the appointment of the judge-advocate officiating thereat, in whatever manner appointed, if a fit person has been appointed and the subsequent approval of the Judge-Advocate General or Deputy Judge-Advocate General obtained, but this rule shall not relieve from responsibility the person who made the invalid appointment.

104. **Substitute on death, illness or absence of judge-advocate.**— If the judge-advocate dies, or from illness or from any cause whatever is unable to attend, the court shall adjourn, and the presiding officer shall report the circumstances to the convening authority; and a fit person not disqualified to be judge advocate may be appointed by that authority, who shall be sworn or affirmed, and act as judge-advocate for the residue of the trial or until the judge advocate returns.

105. **Powers and duties of judge-advocate.**— The powers and duties of a judge-advocate are as follows:

1. The prosecutor and the accused, respectively, are, at all times after the judge advocate is named to act on the court, entitled to his opinion on any question of law related to the charge or trial, whether he is in or out of court, subject, when he is in court, to the permission of the court.

2. At a court-martial, he represents the Judge-Advocate-General.

3. He is responsible for informing the court of any informality or irregularity in the proceedings. Whether consulted or not, he shall inform the convening officer and the court of any informality or defect in the charge, or in the constitution of the court, and shall give his advice on any matter before the court.

4. Any information or advice given to the court, on any matter before the court shall, if he or the court desires it, be entered in the proceedings.

5. At the conclusion of the case, he shall sum up the evidence and give his opinion upon the legal bearing of the case, before the court proceeds to deliberate upon its finding.

6. The court, in following the opinion of the judge-advocate on a legal point, may record that it has decided in consequence of that opinion.
(7) The judge-advocate has, equally with the presiding officer, the duty of taking care that the accused does not suffer any disadvantage in consequence of his position as such, or of his ignorance or incapacity to examine or cross-examine witnesses or otherwise, and may, for that purpose, with the permission of the court, call witnesses and put questions to witnesses, which appear to him necessary or desirable to elicit the truth.

(8) In fulfilling his duties, the judge-advocate must be careful to maintain an entirely impartial position.

SECTION 3—SUMMARY COURTS-MARTIAL

106. Proceedings.—(1) The officer holding the trial hereinafter called the court, shall record, or cause to be recorded, in the Hindi or English language, the transactions of every summary court-martial.

(2) The evidence shall be taken down in a narrative form in as nearly as possible the words used; but in any case where the court considers it material, the question and answer shall be taken down verbatim.

107. Evidence when to be translated.—When any evidence is given in a language which the court or the accused does not understand, that evidence shall be interpreted to the court or officers or junior commissioned officers attending the proceedings in accordance with sub-section (2) of section 116 or the accused as the case may be in a language which it or he does understand. The court shall, for this purpose, either appoint an interpreter, or shall itself take the oath or affirmation prescribed for an interpreter at a summary court-martial. When documents are put in for the purpose of formal proof, it shall be in the discretion of the court to cause as much to be interpreted as appears necessary.

108. Assembly.—When the court, the interpreter (if any), and the officers or junior commissioned officers attending the trial are assembled, the accused shall be brought before the court, and the oaths or affirmation prescribed in rule 109 taken by the persons therein mentioned.

109. Swearing or affirming of court and interpreter.—(1) The court shall make oath or affirmation in one of the following forms or in such other form to the same purport as may be according to its religion or otherwise binding on its conscience.

Form of Oath

"I . . . . . . . . . . . . . . . , swear by Almighty God that I will well and truly try the accused (or accused persons) before the court according to the evidence, and that I will duly administer justice according to the Army Act without partiality, favour or
affection; and if any doubt shall arise, then, according to my conscience, the best of my understanding, and the custom of war in the like cases.”

**Form of Affirmation**

“I . . . . . . . . . . . . . . , do solemnly, sincerely and truly declare and affirm that I will well and truly try the accused (or accused persons) before the court according to the evidence, and that I will duly administer justice according to the Army Act without partiality, favour or affection; and if any doubt shall arise, then according to my conscience the best of my understanding, and the custom of war in the like cases.”

(2) After which the court, or some person empowered by it, shall administer to the interpreter (if any), an oath or affirmation in one of the following forms, or in such other form to the same purport as the court ascertains to be according to his religion or otherwise binding on his conscience.

**Form of Oath**

“1 . . . . . . . . . . . . . . , swear by Almighty God that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court-martial.”

**Form of Affirmation**

“I . . . . . . . . . . . . . . , solemnly, sincerely and truly declare and affirm that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court-martial.”

(3) After the oaths and affirmations have been administered, all witnesses shall withdraw from the court.

**110. Swearing of court to try several accused persons.**—(l) A summary court-martial may be sworn or affirmed at one time to try any number of accused persons then present before it whether those persons are to be tried collectively or separately.

(2) In the case of several accused persons to be tried separately, the court, when sworn or affirmed, shall proceed with one case postponing the other cases and taking them afterwards in succession.

(3) Where several accused persons are tried separately upon charges arising out of the same transaction, the court may, if it considers it to be desirable in the interests of justice, postpone consideration of any sentence to be awarded to anyone or more such accused persons until the trials of all such accused persons have been completed.

**111. Arraignment of accused.**—(l) After the court and interpreter (if any) are sworn or affirmed as above mentioned, the accused shall be arraigned on the charges against him.

(2) The charges on which the accused is arraigned shall be read and, if necessary, translated to him, and he shall be required to plead separately to each charge.
112. Objection by accused to charge.—The accused, when required to plead to any charge, may object to the charge on the ground that it does not disclose an offence under the Act, or is not in accordance with these rules.

113. Amendment of charge.—(1) At any time during the trial if it appears to the court that there is any mistake in the name or description of the accused in the charge-sheet, it may amend the charge-sheet so as to correct that mistake.

(2) If on the trial of any charge it appears to the court at any time before it has begun to examine the witnesses, that in the interests of justice any addition to, omission from or alteration in, the charge is required, it may amend such charge and may, after due notice to the accused, and with the sanction of the officer empowered to convene a district court martial or on active service a summary general court-martial for the trial of the accused if the amended charge requires such sanction, proceed with the trial on such amended charge.

114. Special pleas.—If a special plea to the general jurisdiction of the court, or a plea in bar of trial, is offered by the accused, the procedure laid down for general and district courts-martial when disposing of such pleas shall, so far as may be applicable, be followed, but no finding by a summary court-martial on either of such pleas shall require confirmation.

115. General plea of “Guilty” or “Not guilty”.—(1) The accused person’s plea—“Guilty” or “Not guilty” (or if he refuses to plead, or does not plead intelligibly either one or the other, a plea of “Not guilty”)—shall be recorded on each charge.

(2) If an accused person pleads “Guilty”, that plea shall be recorded as the finding of the court; but before it is recorded, the court shall ascertain that the accused understands the nature of the charge to which he has pleaded guilty and shall inform him of the general effect of that plea, and in particular of the meaning of the charge to which he has pleaded guilty, and of the difference in procedure which will be made by the plea of guilty, and shall advise him to withdraw that plea if it appears from the summary of evidence (if any) or otherwise that the accused ought to plead not guilty.

(2A) where an accused pleads Guilty, such plea and the factum of compliance of sub rule (2) of this rule, shall be recorded by the court in the following manner:—

Before recording the plea of Guilty of the accused, the court explained to the accused the meaning of the charge(s) to which he had pleaded Guilty and ascertained that the accused had understood the nature of the charge(s) to which he had pleaded Guilty. The court also informed the accused the general effect of the plea and the difference in procedure which will be followed consequent to the said plea. The court having satisfied itself that the accused understands the charge(s)
and the effect of his plea of Guilty, accepts and records the same. The provisions of rule 115 (2) are thus complied with.\[1\]

(3) Where an accused person pleads guilty to the first of two or more charges laid in the alternative, the court may, after sub-rule (2) of this rule has been complied with and before the accused is arraigned on the alternative charge or charges, withdraw such alternative charge or charges without requiring the accused to plead thereto, and a record to that effect shall be made upon the proceedings of the court.

**116. Procedure after plea of “Guilty”**.—(1) Upon the record of the plea of “Guilty”, if there are other charges in the same charge-sheet to which the plea is “Not guilty”, the trial shall first proceed with respect to the latter charges, and, after the finding of those charges, shall proceed with the charges on which a plea of “Guilty” has been entered; but if they are alternative charges, the court may either proceed with respect to all the charges as if the accused had not pleaded “Guilty” to any charge, or may, instead of trying him, record a finding upon any one of the alternative charges to which he has pleaded “Guilty” and a finding of “Not guilty” upon all the other alternative charges.

(2) After the record of the plea of “Guilty” on a charge (if the trial does not proceed on any other charges), the court shall read the summary of evidence, and annex it to the proceedings or if there is no such summary, shall take and record sufficient evidence to enable it to determine the sentence, and the reviewing officer to know all the circumstances connected with the offence. The evidence shall be taken in like manner as is directed by these rules in case of a plea of “Not guilty”.

(3) After such evidence has been taken, or the summary of evidence has been read, as the case may be, the accused may address the court in reference to the charge and in mitigation of punishment and may call witnesses as to his character.

(4) If from the statement of the accused, or from the summary of evidence, or otherwise, it appears to the court that the accused did not understand the effect of his plea of “Guilty”, the court shall alter the record and enter a plea of “Not guilty”, and proceed with the trial accordingly.

(5) If a plea of “Guilty” is recorded and the trial proceeds with respect to other charges in the same charge-sheet, the proceedings under sub-rules (2) and (3) shall take place when the findings on the other charges in the same charge-sheet are recorded.

(6) When the accused states anything in mitigation of punishment which in the opinion of the court requires to be proved, and would, if proved, affect the amount of punishment, the court may permit the accused to call witnesses to prove the same.

(7) In any case where the court is empowered by section 139 to find the accused guilty of an offence other than that charged, or guilty of committing an offence in
circumstances involving a less degree of punishment, or where it could, after hearing the evidence, have made a special finding of guilty subject to exceptions or variations in accordance with sub rule (3) of rule 121, it may if it is satisfied of the justice of such course, accept and record a plea of guilty of such other offence, or of the offence as having been committed in circumstances involving such less degree of punishment, or of the offence charged subject to such exceptions or variations.

117. Withdrawal of plea of “Not guilty”.—The accused may, if he thinks fit, at any time during the trial, withdraw his plea of “Not guilty” and plead “Guilty”, and in such case the court shall at once, subject to a compliance with sub-rule (2) of rule 115, record a plea and finding of “Guilty”, and shall, so far as may be, proceed in the manner provided in rule 116.

118. Procedure after plea of “Not guilty”.—After the plea of “Not guilty” to any charge is recorded, the evidence for the prosecution shall be taken. At the close of the evidence for the prosecution, the accused shall be asked if he has anything to say in his defence, and may address the court in his defence, or may defer such address until he has called his witnesses. The court may question the accused on the case for the purpose of enabling him to explain any circumstances appearing in his statement or in the evidence against him. The accused shall not render him liable to punishment by refusing to answer such questions, or by giving answers to them which he knows not to be true. No oath shall be administered to the accused. The accused may then call his witnesses, including also witnesses to character.

119. Witnesses in reply to defence.—The court may, if it thinks it necessary in the interest of justice, call witnesses in reply to the defence.

120. Verdict.—After all the evidence, both for prosecution and defence, has been heard, the court shall give its opinion as to whether the accused is guilty or not guilty of the charges.

121. Form and record of finding.—(1) The finding on every charge upon which the accused is arraigned shall be recorded, and except as mentioned in these rules, such finding shall be recorded simply as a finding of “Guilty”, or of “Not guilty”.

(2) When the court is of opinion as regards any charge that the facts proved do not disclose the offence charged or any offence of which he might under the Act legally be found guilty on the charge as laid, the court shall acquit the accused of that charge.

(3) When the court is of opinion as regards any charge that the facts found to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge, but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the
accused in his defence, it may, instead of a finding of “Not guilty” record a special finding.

(4) The special finding may find the accused guilty on a charge subject to the statement of exceptions or variations specified therein.

(5) The court shall not find the accused guilty on more than one of two or more charges laid down in the alternative, even if conviction upon one charge necessarily connotes guilty upon the alternative charge or charges.

122. Procedure on acquittal.—If the finding on each of the charges in a charge-sheet is “Not guilty”, the court shall date and sign the proceedings, the findings shall be announced in open court, and the accused will be released in respect of those charges.

123. Procedure on conviction.—(l) If the finding on any charge is “Guilty”, the court may record of its own knowledge, or take evidence of and record, the general character, age, service, rank, and any recognised acts of gallantry or distinguished conduct of the accused, and previous convictions of the accused either by a court-martial, or a criminal court, any previous punishments awarded to him by an officer exercising authority under section 80, the length of time he has been in arrest or in confinement on any previous sentence, and any military decoration, or military reward, of which he may be in possession or to which he is entitled.

(2) If the court does not record the matters mentioned in this rule of its own knowledge, evidence on these matters may be taken in the manner provided in rule 64 for similar evidence at general and district court-martial.

124. Sentence.—The court shall award one sentence in respect of all the offences of which the accused is found guilty.

125. Signing of proceedings.—The court shall date and sign the sentence and such signature shall authenticate the whole of the proceedings.

126. Charges in different charge-sheets.—When the charges at a trial by summary court-martial are contained in different charge-sheets, the procedure laid down for general and district courts-martial when trying charges contained in different charge-sheets shall, so far as may be applicable, be followed.

127. Clearing the court.—(l) The officer holding the trial may clear the court to consider the evidence or to consult with the officers or junior commissioned officers, attending the trial.

(2) Except as above-mentioned, all the proceedings, including the view of any place, shall be in open court, and in the presence of the accused.

128. Adjournment.—A summary court-martial may adjourn from time to time and from place to place, and may, when necessary, view any place.
129. Friend of accused.—In any summary court-martial, an accused person may have a person to assist him during the trial, whether a legal adviser or any other person. A person so assisting him may advise him on all points and suggest the questions to be put to witnesses, but shall not examine or cross-examine witnesses or address the court.

130. Memorandum to be attached to proceedings.—An explanatory memorandum is to be attached to the proceedings when a summary court-martial tries, without reference, an offence which should not ordinarily be so tried.

131. Promulgation.—The sentence of a summary court-martial shall (except as provided in rule 132) be promulgated, in the manner usual in the service, at the earliest opportunity after it has been pronounced and shall be carried out without delay after promulgation.

132. Promulgation to be deferred in certain circumstances.—When the officer holding the trial has less than five years' service, the sentence of a summary court-martial shall not (except on active service) be carried out until approved by superior authority as provided in sub-section (2) of section 161.

133. Review of proceedings.—The proceedings of a summary court-martial shall, immediately on promulgation, be forwarded (through the Deputy Judge-Advocate General of the command in which the trial is held) to the officer authorised to deal with them in pursuance of section 162. After review by him, they will be returned to the accused person’s corps for preservation in accordance with sub-rule (2) of rule 146.

SECTION 4 - GENERAL PROVISIONS

Witnesses and Evidence

134. Calling of all prosecutor’s witnesses.—The prosecutor or, in the case of a trial by summary court-martial, the court is not bound to call all the witnesses for the prosecution whose evidence is in the summary of evidence or whom the accused has been informed he or it intends to call, but he or it should ordinarily call such of them as the accused desires, in order that he may cross-examine them, and shall, for this reason, so far as practicable, secure the attendance of all such witnesses.

135. Calling of witness whose evidence is not contained in summary.—If the prosecutor, or, in the case of a summary court-martial, the court intends to call a witness whose evidence is not contained in any summary of evidence given to the accused, notice of the intention shall be given to the accused a reasonable time before the witness is called together with an abstract of his proposed evidence; and if
such witness is called without such notice having been given the court shall, if the accused so desires it, either adjourn after taking the evidence of the witness, or allow the cross-examination of such witness to be postponed and the court shall inform the accused of his right to demand such adjournment or postponement.

136. List of witnesses of accused.—The accused shall not be required to give to the prosecutor or court a list of the witnesses whom he intends to call, but it shall rest with the accused alone to secure the attendance of any witness whose evidence is not contained in the summary and for whose attendance the accused has not requested steps to be taken as provided by sub-rule (1) of rule 34.

137. Procuring attendance of witnesses.—(1) In the case of trials by general or district court-martial, the Commanding Officer of the accused, the convening officer or, after the assembly of the court, the presiding officer, shall take proper steps to procure the attendance of the witnesses whom the prosecutor or accused desires to call, and whose attendance can reasonably be procured, but the person requiring the attendance of a witness may be required to undertake to defray the cost (if any) of their attendance.

(2) The court shall, in the case of trials by summary court-martial, take proper steps to procure the attendance of the witnesses whom the accused desires to call and whose attendance can reasonably be procured, but the accused may be required to undertake to defray the cost (if any) of their attendance.

138. Procedure when essential witness is absent.—If such proper steps as mentioned in the preceding rule have not been taken as to any witness, or if any witness whose attendance could not be reasonably procured before the assembly of the court is essential to the prosecution or defence, the court shall—

(a) take steps to procure the issue of a commission for the examination of such witness; or

(b) if it is a general or district court-martial, adjourn and report the circumstances to the convening officer; or

(c) if it is a summary court-martial, adjourn to enable the witness to attend, or adopt such other course as appears to the officer holding the trial best calculated to do justice.

139. Withdrawal of witnesses from court.—During the trial a witness, other than the prosecutor, shall not, except by special leave of the court, be permitted to be present in court while not under examination and if, while he is under examination, a discussion arises as to the allowance of a question, or the sufficiency of his answers, or otherwise as to his evidence, he may be directed to withdraw.

140. Oath or affirmation to be administered to witnesses.—An oath or affirmation shall, if so required by the Act, be administered to every witness before
he gives his evidence by the judge-advocate (if any), a member of the court, or some other person empowered by the court in one of the following forms or in such other form to the same purport as the court ascertains to be according to the religion or otherwise binding on the conscience of the witness.

**Form of Oath**

“I ........................ swear by almighty God that what I shall state shall be the truth, the whole truth, and nothing but the truth”.

**Form of Affirmation**

“I ........................., do solemnly, sincerely and truly declare and affirm that what I shall state shall be the truth, the whole truth, and nothing but the truth”.

141. **Mode of questioning witness.**—(1) Every question shall be put to a witness orally by the officer holding the trial, by the prosecutor, by or on behalf of the accused, or by the judge-advocate and the witness will forthwith reply, unless an objection is made by the court, judge-advocate, prosecutor or accused, in which case he shall not reply until the objection is disposed of. The witness shall address his reply to the court.

(2) The evidence of a witness as taken down shall be read to him if he so requests before he leaves the court, and shall, if necessary, be corrected. If he makes any explanation or correction, the prosecutor and accused or counsel or the defending officer may respectively examine him respecting the same.

(3) If the witness denies the correctness of any part of evidence when the same is read over to him, the court may instead of correcting the evidence, record the objection made to it by the witness.

(4) If the evidence is not given in English and the witness does not understand that language, the evidence as recorded shall be interpreted to him in the language in which it was given, or in a language which he understands if he so requests before he leaves the court.

(5) Where evidence is recorded by shorthand writer, it shall not be necessary to read the evidence of the witness to him under sub-rule (2) or (4), if, in the opinion of the court and the judge-advocate, if any (such opinion to be recorded in the proceedings), it is unnecessary so to do.

142. **Questions to witnesses by court or judge-advocate.**—(1) The presiding officer, the judge-advocate (if any), or the officer holding the trial and with the permission of the court, any member of the court may address a question to a witness while such witness is giving his original evidence and before he withdraws.

(2) Upon any such question being answered, the presiding officer, the judge-advocate (if any), or the officer holding the trial, shall also put to the witness any
question relative to that answer which the prosecutor or the accused or counsel or the defending officer may request him to put and which the court deem reasonable.

143. Re-calling of witnesses and calling of witnesses in reply.—(1) At the request of the prosecutor or of the accused, a witness may, by leave of the court, be recalled at any time before the closing address of or on behalf of the accused (or at a summary court-martial at any time before the finding of the court) for the purpose of having any question put to him through the presiding officer, the judge-advocate (if any), or the officer holding the trial.

(2) The court may, if it considers it expedient, in the interests of justice, so to do, allow a witness to be called or recalled by the prosecutor, before the closing address of or on behalf of the accused, for the purpose of rebutting any material statement made by a witness for the defence or for the purpose of giving evidence on any new matter which the prosecutor could not reasonably have foreseen.

(3) Where the accused has called witnesses to character, the prosecutor before the closing address of or on behalf of the accused, may call or re-call witnesses for the purpose of proving a previous conviction or entries in the defaulter’s book, against the accused.

(4) The court may call or re-call any witness at any time before the finding, if it considers that it is necessary for the ends of justice.

Addresses

144. Addresses.—All addresses by the prosecutor and the accused and the summing up of the judge-advocate may either be given orally or in writing, and if in writing shall be read in open court.

Insanity

145. Finding of Insanity.—(1) Where the court finds either that the accused by reason of unsoundness of mind, is incapable of making his defence; or that he committed the act alleged but was by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the court shall give brief reasons in support thereof. The judge advocate, if any, or the presiding officer or in the case of summary court martial, the officer holding the trial shall record or cause to be recorded such brief reasons in the proceedings.

(2) The presiding officer or in the case of summary court-martial, the officer holding the trial, shall date and sign the above record, and the proceedings, upon being signed by the judge-advocate, if any, shall at once be transmitted to the confirming
officer or to the authority empowered to deal with its finding under section 162, as the case may be.

**Preservation of Proceedings**

146. **Preservation of proceedings.**—(1) The proceedings of a court-martial (other than a summary court-martial) shall, after promulgation, be forwarded as circumstances require, to the office of the Judge-Advocate General, and there preserved for not less, in the case of a general court-martial, than seven years, and in the case of any other court-martial, than three years.

(2) The proceedings of a summary court-martial shall be preserved for not less than three years, with the records of the corps or department to which the accused belonged.

147. **Right of person tried to copies of proceedings.**— Every person tried by a court martial (other than summary court-martial) shall, after the proceedings have been signed by the Presiding Officer and in the case of summary court-martial the officer holding the trial, and before they are destroyed, on a request made by such person in writing to the Court or the officer holding the trial or the person having the custody of his proceedings, be entitled for the supply of a copy of such proceedings, within a reasonable time and free of cost, including the proceedings upon revision, if any.

147A. **Copy of proceedings not to be given in certain cases.**—Notwithstanding anything contained in rule 147, if the Central Government certifies that it is against the interests of the security of the State or friendly relations with foreign States to supply a copy of the proceedings or any part thereof under the said rule, he shall not be furnished with such copy;

Provided that if the Central Government is satisfied that the person demanding the copy is desirous of submitting a petition in accordance with the Act or instituting any action in a court of law in relation to the finding or sentence, it shall permit inspection of the proceedings to such person or his legal adviser, if any, on the following conditions, namely :

(a) the inspection shall be made at such times and such places as the Central Government or any authority authorised by it may direct; and

(b) the person allowed to inspect the proceedings shall, before such inspection, furnish —

(i) an undertaking in writing, that he shall not make copies of the proceedings or any part thereof and that the information or documents contained in such proceedings shall not be used by him, for any purpose whatsoever other than for the
purpose of submitting a petition in accordance with the Act or instituting an action in a court of law in relation to the said finding or sentence; and
(ii) a certificate that he is aware that he may render himself liable to prosecution under sections 3 and 5 of the Indian Official Secrets Act, 1923 (19 of 1923), if he commits any act specified in the said sections in relation to the documents or information contained in the said proceedings.

148. Loss of proceedings.— (1) If, before confirmation, the original proceedings of a court-martial which require confirmation or any part thereof, are lost, a copy thereof, if any, certified by the presiding officer or the judge-advocate at the court-martial may be accepted in lieu of the original.
(2) If there is no such copy, and sufficient evidence of the charge, finding, sentence, and transactions of the court can be procured, that evidence may, with the assent of the accused, be accepted in lieu of the original proceedings, or part thereof, which have been lost.
(3) In any case above in this rule mentioned, the finding and sentence may be confirmed, and shall be as valid as if the original proceedings, or part thereof, had not been lost.
(4) If the accused refuses the assent referred to in sub-rule (2), he may be tried again, and the finding and sentence of the previous court of which the proceedings have been lost shall be void.
(5) If, after confirmation or in any case where confirmation is not required, the original proceedings of a court-martial or any part thereof are lost, and there is sufficient evidence of the charge, findings, sentence, and transactions of the court and of the confirmation (if required) of the finding and sentence, that evidence shall be a valid and sufficient record of the trial for all purposes.

Irregular Procedure when no injustice is done

149. Validity of irregular procedure in certain cases.— Whenever, it appears that a court-martial had jurisdiction to try any person and make a finding and that there is legal evidence or a plea of guilty to justify such finding, such finding and any sentence which the court-martial had jurisdiction to pass thereon may be confirmed, and shall, if so confirmed
and in the case of a summary court-martial where confirmation is not necessary, be valid, notwithstanding any deviation from these rules or notwithstanding that the charge-sheet has not been signed by the commanding officer or the convening officer, provided that the charges have, in fact, before trial been approved by the commanding officer and the convening officer or notwithstanding any defect or objection, technical or other, unless it appears that any injustice has been done to
the offender, and where any finding and sentence are otherwise valid they shall not be invalid by reason only of a failure to administer an oath or affirmation to the interpreter or shorthand writer; but nothing in this rule shall relieve an officer from any responsibility for any wilful or negligent disregard of any of these rules.

**Offences of witnesses and others**

150. Offences of witnesses and others.— When any court-martial is of opinion that there is ground for inquiring into any offence specified in sections 59 and 60 and committed before it or brought under its notice in the course of its proceedings, or into any act done before it or brought under its notice in the course of its proceedings, which would, if done by a person subject to the Act, have constituted such an offence, such court-martial may proceed as follows that is to say—

1. If the person who appears to have committed the offence is subject to the Act, the court may bring his conduct to the notice of the proper military authority, and may also order him to be placed in military custody with a view to his punishment by an officer exercising authority under section 80, 83, 84 or 85 or to his trial by a court martial.

2. If the person who appears to have done the act is amenable to naval or air force law, the court may bring his conduct to the notice of the proper naval or air force authority, as the case may be.

3. If the person who appears to have done the act is not subject to military, naval or air force law, then in the case of acts which would, if done by a person subject to the Act, have constituted an offence under clause (a), (b), (c) or (d) of section 59, the officer who summoned the witness to appear or the presiding officer or officer holding the court, as the case may be, may forward a written complaint to the nearest Magistrate of the first class having jurisdiction, and in the case of acts which would, if done as aforesaid, have constituted an offence under clause (e) of section 59 or section 60, the court, after making any preliminary inquiry that may be necessary, may send the case to the nearest Magistrate of the first class having jurisdiction for inquiry or trial in accordance with Section 340 of the Code of Criminal Procedure, 1973 (Act 2 of 1974).

**SECTION 5 — SUMMARY GENERAL COURTS-MARTIAL**

The foregoing rules in this Chapter shall not, save as hereinafter mentioned, apply to a summary general court-martial which shall be subject to the following rules, namely—
151. Convening the court and record of proceedings.—(1) The court may be convened and the proceedings of the court recorded in accordance with the form in Appendix III, with such variations as the circumstances of each case may require.

(2) The officer convening the court shall appoint or detail the officers to form the court, and may also appoint or detail such officers as waiting members as he thinks expedient. Such officers should have held commissions for not less than one year, but, if any officers are available who have held commissions for not less than three years, they should be selected in preference to officers of less service.

(3) The provost-marshal, an assistant provost marshal, or an officer who is prosecutor or witness for the prosecution shall not be appointed a member of the court, but subject to sub-rule (2), any other available officer may be appointed to sit.

152. Charge.—The statement of an offence may be made briefly in any language sufficient to describe or disclose an offence under the Act.

153. Trial of several accused persons.—The court may be sworn at the same time to try any number of accused persons then present before it, but except as provided in rule 35, the trial of each accused person shall be separate.

154. Challenges.—(1) The names of the presiding officer and members of the court shall be read over to the accused who shall thereupon be asked if he objects to be tried by any of these officers.

(2) Any objection shall be decided as provided for in section 130 and rule 44 the vacancies being filled from among the waiting members (if any), or by fresh members being appointed by the convening officer.

155. Swearing or affirming the court, judge-advocate, etc.—The provisions of rules 45, 46 and 47 relating to administering and taking of oaths and making of affirmations shall apply to every summary general court-martial.

156. Arraignment.—When the court is sworn or affirmed, the judge-advocate (if any) or the presiding officer shall state to the accused then to be tried, the offence with which he is charged with, if necessary, an explanation giving him full information of the act or omission with which he is charged and shall ask the accused whether he is guilty or not guilty of the offence.

157. Plea of jurisdiction.—If a special plea to the general jurisdiction is offered by the accused, and is considered by the court to be proved, the court shall report the same to the convening officer.

158. Evidence.—(1) The witnesses for the prosecution will be called and the accused shall be allowed to cross-examine them and to call any available witnesses for his defence.
(2) An oath or affirmation as laid down in rule 140 shall be administered to every witness, if so required by the Act, before he gives his evidence, by one of the persons specified in that rule.

159. Defence.—(1) The accused shall be asked what he has to say in his defence, and shall be allowed to make his defence. He may be allowed to have any person to assist him during the trial.

(2) The court or the judge-advocate, if any, may question the accused on the case for the purpose of enabling him to explain any circumstances appearing in his statement or in the evidence against him. The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving answers to them which he knows not to be true.

160. Record of the Evidence and Defence.—(1) The judge-advocate (if any), or the presiding officer shall take down or cause to be taken down a brief record of the evidence of the witnesses at the trial and of the defence of the accused; the record so taken down shall be attached to the proceedings.

(2) If it appears to the convening officer that military exigencies or other circumstances prevent compliance with sub-rule (1), he may direct that the trial will be carried on without any such brief record being taken down.

(3) If the accused pleads “Guilty” the summary of evidence, if any, may be read and attached to the proceedings, and it shall not be necessary for the court to hear witnesses for the prosecution, respecting matters contained in the summary of evidence so read.

161. Finding and sentence.— The court shall then be closed to consider its finding. If the finding on any charge is “Guilty”, the court may receive any evidence as to previous convictions and character which is available. The court shall then deliberate in closed court as to its sentence.

162. Signing and transmission of proceedings.— Upon the court arriving at a finding of “Not guilty”, or awarding the sentence in case of having arrived at a finding of “Guilty”, the presiding officer shall date and sign the finding or sentence, as the case may be. The signature shall authenticate the whole of the proceedings and the proceedings upon being signed by the judge-advocate, if any, shall at once be transmitted to the confirming officer, for confirmation.

163. Adjournment.— (1) A summary general-court-martial may adjourn from time to time and from place to place and may when necessary view any place.

(2) The proceedings shall be held in open court, in the presence of the accused except on any deliberation among the members when the court may be closed.
164. Application of rules.—The foregoing rules, namely rules 22 (hearing of charge), 23 (procedure for taking down the summary of evidence), 24 (remand of accused), 27 (delay report), 33 (rights of accused to prepare defence), 34 (warning of accused for trial), 36 (suspension of rules on grounds of military exigencies or the necessities of discipline), 38 (adjournment for insufficient number of officers), 49 (objection by accused to charge), 51 (special plea to the jurisdiction), 52 (general plea of ‘Guilty’ or ‘Not guilty’), 53 (plea in bar), 54 (procedure after plea of “Guilty”), 55 (withdrawal of plea of ‘Not guilty’), 61 (consideration of finding), 62 (form, record and announcement of finding), 64 (procedure on conviction), 65 (sentence), 66 (recommendation of mercy), 67 (announcement of sentence), 71 (promulgation), 72 (mitigation of sentence on partial confirmation), 73 (confirmation notwithstanding informality in, or excess of, punishment), 74 (member or prosecutor not to confirm proceedings), 76 (responsibility of presiding officer), 77 (power of court over address of prosecutor and accused), 78 (procedure on trial of accused persons together), 80 (sitting in closed court), 80-A (Court-martial to be public), 84 (proceedings on death or illness of accused), 85 (death, retirement or absence of presiding officer), 86 (presence throughout of all members of the court), 94 (transmission of proceedings after finding), 95 (defending officer and friend of accused), [96 (counsel allowed in certain general and district courts martial), 97 (requirement for appearance of counsel) 98 (counsel of prosecution), 99 (counsel for accused), 100 (general rules as to counsel), 101 (qualification of counsel), 102 (disqualification of judge-advocate), 103 (invalidity in the appointment of judge-advocate), 104 (substitute on death, illness, or absence of judge-advocate), 105 (powers and duties of judge-advocate), 145 (finding of insanity), 146 (preservation of proceedings), 147 (right of person tried to copies of proceedings), 148 (loss of proceedings), 149 (validity of irregular procedure in certain cases), shall, so far as practicable, apply as if a summary general court martial were a district court-martial.

165. Evidence of opinion of convening officer.—Any statement in an order convening a summary general court-martial as to the opinion of the convening officer shall be conclusive evidence of that opinion, but this rule shall not prejudice the proof at any time of any such opinion when not so stated.

SECTION 6—EXECUTION OF SENTENCES

166. Committal Warrants.—A warrant for the committal of a person sentenced by a court-martial to a prison, under the provision of section 168 and sub-section (2) of section 169, shall be in one of the forms given in Appendix IV. Such warrant shall be
signed and despatched by the commanding officer of the prisoner or by any higher authority or his staff officer and forwarded to the proper prison authority.

167. Warrants under Section 173.—Any warrant issued under the provisions of section 173 shall be in one of the forms given in Appendix IV, and shall be signed by the officer making the order in pursuance of which such warrant is issued, or by his staff officer, or by the commanding officer of the unit to which the person undergoing sentence belonged.

168. Sentence of Cashiering or Dismissal.—(1) A sentence of cashiering or dismissal awarded by a court-martial shall take effect from the date on which the sentence is promulgated to the person under sentence, or except in the case of an officer, from such subsequent date as may be specified by the commanding officer at the time of such promulgation.

(2) When dismissal is combined with imprisonment which is to be carried out in a military prison or in military custody [***]1 the dismissal shall not take effect until, the date on which the prisoner is released from a military prison or from a military custody.

(3) When cashiering or dismissal is combined with imprisonment for life or with imprisonment which is to be carried out in a civil prison, the cashiering or dismissal shall not take effect until the date on which the prisoner is received into a civil prison.

169. Custody of Person under Sentence of Death.—When a person is sentenced by a court-martial to suffer death, the commanding officer for the time being of such person may, if he thinks fit, by a warrant in one of the forms in Appendix V, commit the said person for safe custody in a civil prison pending confirmation or the carrying out of the sentence.

170. Opportunity for petition against sentence of death.—(1) While confirming the sentence of death, the confirming authority shall specify the period within which the person sentenced may, after the sentence has been promulgated to him, submit a petition against the finding or sentence against him of the court-martial.

(2) The person against whom a sentence of death has been confirmed shall at the time of promulgation, be informed of his rights under sub-section (2) of section 164 and of the period specified by the confirming authority within which he may, if he so wishes to do, submit a petition against the finding or sentence of the court-martial.

(3) Every petition against a finding or sentence submitted by a person against whom a sentence of death has been confirmed, and every order in respect of such petition shall be transmitted, whereas confirming authority is the Chief of the Army Staff or the Central Government, through the Adjutant General at the Army Head-quarters and in any other case, through the confirming officer.
(4) A sentence of death shall not be carried into effect until the expiry of the period specified by the confirming authority under sub-rule (1) or if, within the period so specified, the person under sentence submits a petition against the finding or sentence of the court martial, until the authority legally competent to dispose of such petition finally, after considering the petition, orders that the sentence of death may be carried into effect.

170A. Death Warrant.—(1) The officer commanding the army, army corps or division or an officer commanding forces in the field shall nominate a provost marshal or other officer not below the rank of Lieutenant Colonel who shall be responsible for the due execution of the sentence of death passed under the Act, and shall issue to such officer the death warrant in the relevant form contained in Appendix V.

(2) The officer specified in sub-rule (1) shall not issue the death warrant until he is satisfied that having regard to the provision of rule 170, the sentence of death may be carried into effect.

(3) No sentence of death passed under the Act shall be carried into effect until the death warrant has been received by the provost marshal or other officer nominated under sub-rule (1).

(4) If the authority specified in sub-rule (1) is of the opinion that the sentence of death be carried out in a civil prison, he shall forward a warrant in one of the forms in Appendix V together with an order of the confirming authority certifying the confirmation of the sentence, to the civil prison for execution of the sentence.

170B. Execution of sentence of death.—(1) On receipt of the death warrant, the provost marshal or other officer, nominated under sub-rule (1) of rule 170A shall:

(a) inform the person sentenced as soon as possible of the date on which the sentence will be carried out;

(b) if the person sentenced has been committed to a civil prison under rule 169, obtain the custody of his person by issuing a warrant in one of the forms in Appendix V; and

(c) proceed to carry out the sentence as required by the death warrant and in accordance with any general or special instructions which may from time to time be given by or under the authority of the Chief of the Army Staff.

(2) During the execution of sentence of death passed under the Act, no person except those specified, below, shall be present without the authority of the officer who issued the death warrant. The following persons shall attend the execution of the sentence of death:

(a) the provost marshal or other officer who is responsible for the due execution of the sentence in accordance with these rules;
(b) a commissioned medical officer of the armed forces of the Union;
(c) an officer nominated by the officer who issued the death warrant, who is able to identify the person under sentence as the person described in the death warrant and as the person who was tried and sentenced by the court-martial mentioned therein;
(d) such non-commissioned officers as may be detailed by the provost marshal or the other officer aforesaid for escort and security purposes or to assist in the execution;
(e) if the execution is carried into effect in an army unit, the officer for the time being in command of such unit.

(3) After the sentence of death has been carried into effect, the provost marshal or other officer nominated under sub-rule (1) of rule 170A or the Superintendent of the civil prison, as the case may be, shall complete or cause to be completed parts II and III of the death warrant, and shall, without unnecessary delay return the completed death warrant to the officer who had issued the same.

171. Procedure on Commutation of Sentence of Death—If a sentence of death is commuted under the Act or if the person sentenced to death is pardoned, and (a) if he has been committed to a civil prison under a warrant issued under rule 169, a further warrant in one of the forms given in Appendix V shall be issued by the commanding officer of such person;
(b) if he has been detained in military custody, any warrant which may be necessary to give effect to the sentence as so commuted, shall be issued in one of the forms given in Appendix IV.


CHAPTER VI
COURTS OF INQUIRY

177. Courts of Inquiry.—(1) A court of inquiry is an assembly of officers or of junior commissioned officers or of officers and junior commissioned officers, warrant officers or non-commissioned officers, directed to collect evidence, and if so required to report with regard to any matter which may be referred to them.
(2) The court may consist of a Presiding Officer, who will either be an officer or a junior commissioned officer, and of one or more members. The Presiding Officer and members of court may belong to any Regt or Corps of the service according to the nature of the investigation.
(3) A court of inquiry may be assembled by the officer in command of any body of troops, whether belonging to one or more corps.
178. Members of Court not to be Sworn or Affirmed. — The members of the court shall not be sworn or affirmed, but when the court is a court of inquiry on recovered prisoners of war, the members shall make the following declaration—

“
I do declare upon my honour that I will duly and impartially inquire into and give my opinion as to the circumstances in which....... became a prisoner of war, according to the true spirit and meaning of the regulations of the regular Army; and I do further declare, upon my honour that I will not on any account, or at any time disclose or discover my own vote or opinion or that of any particular member of the court, unless required to do so by competent authority”.

179. Procedure.—(1) The court shall be guided by the written instructions of the authority who assembled the court. The instructions shall be full and specific and shall state the general character of the information required. They shall also state whether a report is required or not.

(2) The officer who assembled the court shall, when the court is held on a returned prisoner of war or on a prisoner of war who is still absent, direct the court to record its opinion whether the person concerned was taken prisoner through his own wilful neglect of duty, or whether he served with or under, or aided the enemy; he shall also direct the court to record its opinion in the case of a returned prisoner of war; whether he returned as soon as possible to the service and in the case of a prisoner of war still absent whether he failed to return to the service when it was possible for him to do so. The officer who assembled the court shall also record his own opinion on these points.

(3) Previous notice should be given of the time and place of the meeting of a court of inquiry, and of all adjournments of the court, to all persons concerned in the inquiry except a prisoner of war who is still absent.

(4) The court may put such questions to a witness as it thinks desirable for testing the truth or accuracy of any evidence he has given and otherwise for eliciting the truth.

(5) The court may be re-assembled as often as the officer who assembled the court may direct, for the purpose of examining additional witnesses, or further examining any witness, or recording further information.

(5A) Any witness may be summoned to attend by order under the hand of the officer assembling the court. The summons shall be in the Form provided in Appendix III.

(6) The whole of the proceedings of a court of inquiry shall be forwarded by the presiding officer to the officer who assembled the court.

180. Procedure when character of a person subject to the Act is involved.— Save in the case of a prisoner of war who is still absent whenever any inquiry affects the character or military reputation of a person subject to the Act, full opportunity
must be afforded to such person of being present throughout the inquiry and of making any statement, and of giving any evidence he may wish to make or give, and of cross-examining any witness whose evidence, in his opinion, affects his character or military reputation and producing any witnesses in defence of his character or military reputation. The presiding officer of the court shall take such steps as may be necessary to ensure that any such person so affected and not previously notified receives notice of and fully understands his rights, under this rule.

181. Evidence when to be taken on oath or affirmation.—Evidence shall be recorded on oath or affirmation when a court of inquiry is assembled—

(a) on a prisoner of war, or
(b) to inquire into illegal absence under section 106, or
(c) in any other case when so directed by officer assembling the court.

Explanation.—The court shall administer the oath or affirmation to witnesses as if the court were a court-martial.

182. Proceedings of court of inquiry not admissible in evidence.—The proceedings of a court of inquiry, or any confession, statement, or answer to a question made or given at a court of inquiry shall not be admissible in evidence against a person subject to the Act, nor shall any evidence respecting the proceedings of the court be given against any such person except upon the trial of such person for wilfully giving false evidence before the court:

Provided that nothing in this rule shall prevent the proceedings from being used by the prosecution or the defence for the purpose of cross-examining any witness.

183. Court of inquiry as to illegal absence under section 106.—(1) A court of inquiry under section 106 shall, when assembled, require the attendance of such witnesses as it thinks sufficient to prove the absence and other facts specified as matters of inquiry in that section.

(2) It shall take down the evidence given it in writing and at the end of the proceedings shall make a declaration of the conclusions at which it has arrived in respect of the facts it is assembled to inquire into.

(3) The commanding officer of the absent person shall enter in the court-martial book of the corps or department, a record of the declaration of the court, and the original proceedings will be destroyed.

(4) The court of inquiry shall examine all witnesses who may be desirous of coming forward on behalf of the absentee, and shall put such questions to them as may be desirable for testing the truth or accuracy of any evidence they have given and otherwise for eliciting the truth, and the court in making its declaration shall give due weight to the evidence of all such witnesses.
(5) An oath or affirmation shall be administered to the witnesses in the manner specified in rule 181.

184. Right of certain persons to copies of statements and documents—(1) Any person subject to the Act who is tried by a court-martial shall be entitled to copies of such statements and documents contained in the proceedings of a court of inquiry, as are relevant to his prosecution or defence at his trial.

(2) Any person subject to the Act whose character or military reputation is affected by the evidence before a court of inquiry shall be entitled to copies of such statements and documents as have a bearing on his character or military reputation as aforesaid, unless the Chief of the Army Staff for reasons recorded by him in writing, orders otherwise.

Losses or Thefts of Arm

185. Court of inquiry when rifles, etc., are lost or stolen.—(1) Whenever any weapon or part of a weapon, which forms part of the equipment of a squadron, battery, company or other similar unit, and in respect of the loss or theft of which a fine may be imposed under the rule 186 is lost or stolen, a court of inquiry shall be assembled, under the orders of the officer commanding the army, army corps, division or independent brigade, to investigate the circumstances under which the loss or theft occurred.

(2) The officer who assembled the court shall direct it to record an opinion as to the circumstances of the loss or theft.

186. Collective Fines may be imposed.—(1) The officer commanding the army, army corps, division or independent brigade shall then record his opinion on the circumstances of the loss or theft, and may impose for each weapon or part of a weapon lost or stolen, collective fines to the extent of the current official prices of such weapons or part of weapons on the junior commissioned officers, warrant officers, non-commissioned officers, and men of such unit or upon so many of them as he considers should be held responsible for the occurrence.

(2) Such fine will be assessed as a percentage on the pay of the individuals on whom it falls.

CHAPTER VII

PRESCRIBED OFFICERS, AUTHORITIES AND OTHER MATTERS

187. ‘Corps’ prescribed under Section 3(vi).—(1) Each of the following separate bodies of persons subject to the Act shall be a “Corps” for the purposes of Chapter
III and section 43(a) of the said Act and of Chapters II and III of these rules, [except rule 13][2, namely:—

(a) President’s Body Guard.

(b) The Armoured Corps, Horsed Cavalry Regiments, including Training Centres and non-combatants.

(c) The Regiment of Artillery.

(d) The Corps of Engineers including non-combatants.

(e) The Corps of Signals including non-combatants.

(f) Each regiment or each ungrouped battalion (as the case may be) of Infantry, or, in the case of grouped Gorkha Regiments, each group of Infantry including noncombatants.

(g) Each parachute battalion.

(h) The Army Service Corps (including postal).

(i) The Remount, Veterinary & Farms Corps.

(j) The Army Medical Corps.

(k) The Army Dental Corps.

(l) The Army Ordnance Corps.

(m) The Corps of Electrical & Mechanical Engineers.

(n) The Technical Development Establishments.

(o) The Intelligence Corps.

(p) The Corps of Military Police.

(q) The Pioneer Corps.

(r) The Defence Security Corps.

(s) The Army Education Corps.

(t) The Army Physical Training Corps.

(u) The General Service Corps.

(v) The Frontier Defence Corps.

(w) Each Boys Battalion.

(x) Gorkha Boys Company.

(y) Any other separate body of persons subject to the Act, employed on any service and NOT attached to any of the above Corps or to any department.

(2) Every unit in which a court-martial book is maintained shall be a “Corps” for the purposes of section 106 and rule 183.

(3) For the purposes of every other provision of the said Act and of these rules each of the following separate bodies shall be “corps”:—

(a) Every battalion.

(b) Every company which does not form part of battalion.

(c) Every regiment of cavalry, armoured corps or artillery.
(d) Every squadron or battery which does NOT form part of regiment of cavalry, armoured corps or artillery.

(e) Every school of instruction, training centre, or regimental centre.

(f) Every other separate unit composed wholly or partly of persons subject to the Act.

188. Conditions prescribed under Section 3(xviii) (f).—In the Act and in these rules, the expression 'officer', in relation to a person subject to the Act, includes a person holding a commission in the Indian Navy or the Air Force, when he is serving under any of the following conditions, namely :

(a) when he is a member of a body of the regular Army, acting with a body of the Indian Navy or the Air Force which is on active service;

(b) when he is being conveyed on any vessel or aircraft employed as a transport or troop ship;

(c) when he is serving in or is a patient in any hospital or medical unit in which any officer of the Indian Navy or the Air Force is on duty or is a patient;

(d) when he is a member of a body of the regular Army acting in an emergency with a body of the Indian Navy or the Air Force and an order in writing is made by the officers commanding the bodies concerned stating that an emergency exists and that it is necessary for officers of the Indian Navy or the Air Force to exercise command over persons subject to the Act. A copy of every such order shall forthwith be sent to the Central Government;

(e) when he is serving in any place in which or with any body of the regular Army with which, there is present any officer of the Indian Navy or the Air Force and the Central Government has by special order declared that it is necessary for officers of the Indian Navy or the Air Force to exercise command over persons subject to the Act in that place or with that body of the regular Army.

189. Prescribed Officer under Section 7(1).—The prescribed officer for the purposes of sub-section (1) of section 7 shall be the officer commanding the army, army corps, division, or brigade or any equivalent formation with which the person subject to the Act under clause (i) of sub-section (1) of section 2 is for the time being serving.

190. Prescribed form under Section 13.—The prescribed form for the purposes of section 13 shall be the same as set forth, in Appendix I.

191. Prescribed Officer under Section 78.—The prescribed officer for the purposes of section 78 shall be the officer commanding the forces in the field, or, in the case of a sentence which he confirms or could have confirmed or which did not require confirmation, the officer commanding the army corps, division, brigade or any detached portion of regular Army within which the trial was held.
192. Prescribed extent of Punishments under Section 80.—Subject to the other provisions of the Act, a commanding officer or other officer as is specified under section 80, may,—
(i) if not below field rank, award punishments specified in section 80 to the full extent;
(ii) if below field rank, award imprisonment and detention upto seven days and other punishments to the full extent. An officer having power not less than an officer commanding a division may, however, empower such officer to award imprisonment and detention to the full extent.

Provided that where the punishment awarded consists of reduction to a lower grade of pay, such reduction shall be to the immediately next lower grade and shall not be effective for a period exceeding one year.

193. Prescribed officer under Sections 90 (i) and 91 (i).—The prescribed officer for the purposes of clause (i) of section 90 and clause (i) of section 91 shall be the Chief of the Army Staff or the officer commanding the Army.

194. Prescribed officer under Section 93.—The prescribed officer for the purposes of section 93 shall be, in the case of an officer, the Chief of the Army Staff or the officer commanding an Army, and, in the case of a person other than an officer, the officer empowered to convene a court-martial for his trial.

195. Prescribed Authorities under Section 97.—Any penal deduction from the pay and allowances of a person subject to the Act, made under Chapter VIII thereof, may be remitted as hereinafter provided, that is to say :
(a) a penal deduction from the pay and allowances of any such person may be remitted by the Central Government,
(b) the commanding officer of any such person, other than an officer, who has been absent without leave for a period not exceeding five days may, unless the person is convicted by a court-martial on a charge for such absence, remit the forfeiture of pay and allowances to which that absence renders him liable.
(c) a forfeiture of pay and allowances incurred by any such person owing to his absence as a prisoner of war may, (unless it shall have been proved before a court of inquiry that he was taken prisoner through his own wilful neglect of duty, or that he served with or under, or aided, the enemy or that he did not, as soon as possible, return to the service) be remitted by the Chief of the Army Staff, by the officer commanding an army, army corps, division or independent brigade, or by the officer commanding the forces in the field.

196. Prescribed Authorities under Sections 98 and 99.—The prescribed authorities for the purposes of sections 98 and 99 shall be—
(i) in the case of officers of the Army Medical Corps, Director General Armed Forces Medical Services,
(ii) in the case of all other officers, the Director of Personal Services, and
(iii) in all other cases, the officer not below the rank of Lieutenant-Colonel commanding a Training Battalion, Training Centre, Depot or Record Office who maintains the accounts of the individual, or any superior authority.

197. Prescribed Officer under Section 107 (1)—The prescribed officer for the purposes of sub-section (1) of section 107 shall be the officer commanding an army, army corps, division or independent brigade or an officer commanding the forces in the field.

197-A. Prescribed Officer under Section 125.—The prescribed officer for the purpose of section 125 of the Act shall except in cases falling under Section 69 of the Act in which death has resulted, be the officer commanding the brigade or station in which the accused person is serving.

198. Prescribed Officer under Section 142.— The prescribed officer for the purposes of sub-section (1) of section 142 shall be the officer commanding the corps, department or detachment to which the person appears to have belonged or alleges that he belongs or had belonged.

199. Prescribed Manner of Custody and Prescribed Officers under Sections 145 and 146.— (1) The prescribed officer for the purposes of section 146 shall be—
(a) in the case of trial by summary court-martial the commanding officer of the corps. Department or Detachment to which the accused persons belongs, or any authority superior to the commanding officer;
(b) in the case of trial by any other court-martial, the convening officer or any authority superior to him.

(2) Where an officer who proposes to act as a prescribed officer under sub-rule (1) is under the command of the officer who has taken action in the case under sub-section (4) of section 145, he shall ordinarily obtain the approval of such officer before he acts; but, if he is of opinion that military exigencies, or the necessities of discipline, render it impossible or inexpedient to obtain such approval, he may act without obtaining such approval, but shall report his action and the reasons therefore to such officer.

(3) For the purposes of sub-section (4) of section 145 the manner in which an accused person shall be kept in custody shall be as follows:-
The accused shall be confined in such manner as may, in the opinion of the proper military authority, be best calculated to keep him securely without unnecessary harshness, as he is not to be considered as a criminal but as a person labouring under a disease.
200. Prescribed Officer under Section 162.— The prescribed officer for the purposes of section 162 shall, whenever any division or brigade is temporarily withdrawn from its territorial area, be the officer, not being below the rank of field officer, commanding the corresponding divisional or brigade area, within which the trial is held:

Provided that, when the officer who held the trial is himself the commander of such area, he shall forward the proceedings to superior authority. When the trial is held on board a ship the prescribed officer shall be the officer commanding the troops on board the ship, or the officer who would have had power to deal with the proceedings had the trial been held at the port of disembarkation:

Provided that, when the officer who held the trial is himself the officer commanding the troops on board the ship, he shall forward the proceedings to the authority at the port of disembarkation.

201. Prescribed Officer under Section 164(2).— The prescribed officer for the purposes of sub-section (2) of section 164 shall be any officer superior in command to the commanding officer and in the case of a summary court-martial, any officer superior in command to the officer who held the summary court-martial, provided that such superior officer has power not less than a brigade commander.

202. Prescribed Officer under Section 165.— The prescribed officer for the purposes of section 165 shall be the officer commanding an army, army corps, division or brigade in respect of proceedings confirmed by him or by a person under his command.

203. Prescribed Officer under Section 169.—The prescribed officer, under sub-section (1) of section 169, for the purposes of directing whether the sentence shall be carried out by confinement in a civil prison or by confinement in a military prison, shall be, in the case of a sentence which has been confirmed, any higher authority than the confirming officer, and in the case of a sentence which does not require confirmation, any higher authority to the officer holding the trial.

204. Prescribed Officer under Section 179.—The prescribed officer for the purposes of section 179 shall be—

(a) as regards persons undergoing sentence in a civil prison or any other place, the officer commanding the army, army corps, division, or independent brigade within the area of whose command the prisoner subject to such punishment may for the time be;

(b) as regards persons convicted on active service, the officer commanding the forces in the field.
Authorised Deductions

205. Authorised Deductions.—The following deductions may be made from the pay, non-effective pay and all other emoluments payable to a person subject to the Act, namely:

(a) upon the general or special order of the Central Government, any sum required to meet any public claim there may be against him, any regimental debt that may be due from him or any regimental claim;

(b) any sum required to meet compulsory contributions to any provident fund or any benevolent or other fund approved by the Central Government.

Explanation.—(i) “Public Claim” means any public debt or disallowance including any over-issue; or a deficiency or irregular expenditure of public money or store of which, after due investigation, no explanation satisfactory to the Central Government is given by the person who is responsible for the same.

(ii) The aforesaid deductions shall be in addition to those specified in the Act.
FORMS OF CHARGES

PART I

COMMENCEMENT OF CHARGE-SHEET

(Description of the accused)

(Refer to AR 29)

1. The accused, Number ................. Rank........................................
   Name.........................., Unit..........................................., is charged with :—

2. The accused, Number....................... Rank..................................
   Name............................., Unit ....................................., an officer holding a permanent (or short service or temporary........... ) commission in the regular Army, is charged with:—

3. The accused, Number............................. Rank.................................
   Name............................ , Unit ......................................., attached to........................................(unit), is charged with :—

4. The accused, Number....................... Rank (Reservist)............................
   Name............................ Unit..........................................., is charged with:—

5. The accused, Number ........................... Rank........................
   Name.................................... Unit ........................................, a person enrolled in the Territorial Army and called out to provide essential guards (or embodied............., or when attached to....................................), is charged with:—

6. The accused, Number........................... Rank (or appointment or grade)...................... Name............................ Unit ........................................, a person subject to the Army Act as an Officer (or Junior Commissioned Officer or Warrant Officer or Non Commissioned Officer or a Sepoy) under Section 4(1) thereof read with SRO..............dated..............................., is charged with :—

7. The accused, Name Shri ......................... Unit........................., a person subject to the Army Act as an Officer (or Junior Commissioned Officer or Warrant Officer or Non Commissioned Officer or Sepoy) under Section 2 (1) (i) read with Section 6 thereof, is charged with:—

8. The accused, Name .................., formerly Number..........................., Rank,.....................,
   Name............................. Unit ........................................, now attached to.....................(unit), and liable to trial
by court-martial under Section 123 of the Army Act, is charged with:—

PART II
ILLUSTRATION OF CHARGE-SHEET

NOTE :—The following is an illustration of a complete charge-sheet, as it would be placed before a District Court Martial for the trial of a Sepoy charged with two offences:—

Charge-sheet

The accused, No. 12345678 Sepoy (P/A/Naik) Prem Chand, 1st Battalion, The Punjab Regiment, attached to 2nd Battalion, The Dogra Regiment, is charged with:

First Charge

Army Act DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR Section 41(2) OFFICER,

in that he,
at Allahabad, on 28 Jan 1977, when ordered by JC-23456 Subedar Vijay Chand of 1st Battalion, The Punjab Regiment to turn out for Commanding Officer’s parade, did not do so.

Second Charge USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR Army Act OFFICER,

Section 40(c)

in that he,
at the place and date aforesaid, when arrested by JC-23456 Subedar Vijay Chand of 1st Battalion, The Punjab Regiment, said to him, “You know only how to arrest a Sepoy, You are good for nothing”, or words to that effect.

Sd/-

Place : Allahabad Veer Pratap
Date : 30 Jan 2008 Lt Col
Commanding 2nd Battalion
The Dogra Regiment
To be tried by a District Court Martial. Dayanand

Sd/-

Brigadier
Commanding Allahabad Sub Area
Place : Allahabad
Date :

Note:- When sanction is accorded for the trial of an offence by a Summary Court Martial vide AA.S. 120(2), a similar endorsement should be made on the charge-sheet.

NOTES AS TO USE OF FORMS OF CHARGES

These notes do not form part of the Appendices to Army Rules.

(1) Every charge-sheet will begin as shown in the form in Part I of Appendix II (forms of charges), which are given as examples.

The description of an officer, junior commissioned officer, warrant officer or person enrolled under the Act by his number, rank and corps is a sufficient averment that he is an officer, junior commissioned officer, warrant officer or such a person and that he is amenable to military law. In other cases, words must be added to show that the person is amenable to military law (See AR 29).

(2) The commencement of the charge-sheet (according to the form in Part I) will be followed by the charge or charges.

(3) Each charge will consist of two parts; a statement of the offence and a statement of the particulars of the act, neglect or omission constituting the offence. [AR 30(2)].

(4) The statement of the offence will be in one of the forms in Part III of Appendix II.

(5) Where two or more words or expressions occur in Part III of Appendix II bracketed together one under the other, the particular word, or expression, should be used which most accurately describes the offence which appears to the officer framing the charge to be capable of proof by legal evidence.

(6) The statement of the offence in each charge will be followed by the appropriate statement of the particulars, commencing with the words “in that he”, etc., or “in having”, etc., and stating in brief ordinary language what the accused is alleged to have done.

(7) In the case of several charges, the particulars in one charge may refer to the particulars in another [AR 30(5)], as, for example “in having done the acts alleged in the particulars of the first charge”, or “in that he, at the place and time aforesaid, was deficient of the property abovementioned in the second charge, which was
entrusted to him”. If the accused is acquitted on any charge in which full particulars were set out, and is convicted on a charge which referred to those particulars, the particulars referred to must be treated as having been set out in full in the charge on which the accused is convicted, and must be set out in full in any record of conviction in which the particulars are set out.

(8) The “particulars” should always give a general description of the place where the offence was committed, and should state the date on which the offence was committed. If the exact date or time is unknown, the offence may be stated as having been committed “on or about”.

(9) The words “or near” and “or about” and “between” should never be used unless it is impossible to express the exact place or time, or the exact place or time is clearly unimportant; or unless the word “about” or “between” are the most accurate expression of the place or time.

(10) For offences punishable more severely on active service than at other times, the words ‘while on active service’ must be averred in the particulars of the charge. (see AA.ss. 36 and 38).

PART IV

SPECIMEN CHARGES

The following specimen charges (which are not, however, prescribed in any Rules) may be found useful. In this part only statements of offences and particulars of the charges have been given.

No. 1

Charge-Sheet

[Section 34 (a)]

SHAMEFULLY ABANDONING A POST COMMITTED TO HIS CHARGE,

in that he,

at...................., on........................., when in charge of Post No........................................in Sector ..................................and attacked by the enemy, shamefully abandoned the said post, without any attempt to resist the enemy.
No. 2

Charge-Sheet

[Section 34 (c)]

IN THE PRESENCE OF THE ENEMY MISBEHAVING IN SUCH MANNER AS TO SHOW COWARDICE,

in that he,

at..................., on............., when No ............... Sep ....................... of ............, one of the sentries at the Regimental Quarter Guard, had mortally wounded one Sepoy of the said guard and seriously wounded another and was firing his rifle in all directions, showed cowardice by abandoning the said Quarter Guard and hiding himself.

No. 3

Charge-Sheet

[Section 34 (h)]

IN TIME OF ACTION LEAVING HIS PICQUET WITHOUT LEAVE,

in that he,

at..................., on............., in time of action between 2000 hrs and 2200 hrs, being on duty at picquet........................., left the said piequet without leave.

No. 4

Charge-Sheet

[Section 36 (c)]

WHEN A SENTRY SLEEPING UPON POST,

in that he,

when on active service, at..................., on............., between 0100 hrs and 0200 hrs, when a sentry at............................... post, was asleep.

No 5

Charge-Sheet

[Section 36 (d)]

LEAVING HIS POST WITHOUT ORDERS FROM HIS SUPERIOR OFFICER,

in that he,

at field, between 0400 hrs and 0600 hrs on..................., when on sentry duty at..................... post, quitted his post without orders from his superior officer.
No. 6

Charge-Sheet

(Joint Trial)

[Section 37 (a)]

CONSPIRING WITH OTHER PERSONS TO CAUSE A MUTINY IN THE MILITARY
FORCES OF INDIA,

in that they,

at...................., on.............., agreed together with No......................Rank
..........................Name ...................., of................................ battalion (and certain
other persons unknown) to cause a mutiny in ................................. Company of
the said battalion, to wit, to cause the said Company to refuse to march on
the.................................to.................................to which place the said Company
was under orders to march.

No. 7

Charge-Sheet

[Section 38 (1)]

DESERTING THE SERVICE,

in that he,

at...................., on.............., absented himself from................. Regiment, until
apprehended
by the civil police at.............................. on.............................. .

No. 8

Charge-Sheet

[Section 39 (a)]

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at...................., absented himself without leave from the unit lines
from..................., to..............

No. 9

Charge-Sheet

[Section 41 (2)]

DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

at...................., on.............., when ordered by No. .................. Rank...............Name............... , of the same Regiment to eat his food, did not do so.
No. 10
Charge-Sheet
[Section 46 (b)]
MALINGERING,
in that he,
at................., on............, between............... and............... hrs. with the intention of evading his duties as a member of the Quarter Guard counterfeited dumbness.

No. 11
Charge-Sheet
[Section 47]
ILL-TREATING A PERSON SUBJECT TO THE ARMY ACT, BEING HIS SUBORDINATE IN RANK,
in that he,
at................., on............, ill-treated No............ Rank............ Name..........., of the same unit, by making him stand in the sun between 10 a.m. and 4 p.m. and not allowing him to drink water during the said period.

No. 12
Charge-Sheet
[Section 48]
INTOXICATION,
in that he,
at................., on............, when on duty (specify duty) was intoxicated.

No. 13
Charge-Sheet
[Section 54 (b)]
LOSING BY NEGLECT IDENTITY CARD, THE PROPERTY OF THE GOVERNMENT ISSUED TO HIM FOR HIS USE,
in that he,
at................., on............, was deficient of Identity Card No..................., the property of the Government, issued to him for his use.

Note:—Ordinarily proof of the date and circumstances of the loss of the property is necessary. Occasionally, proof of them cannot be obtained. In such cases the
particulars of the charge should aver that the accused was deficient of the property in question on a specific date.

No. 14
Charge-Sheet
[Section 63]
AN ACT PREJUDICIAL TO GOOD ORDER AND MILITARY DISCIPLINE,
in that he,
at............... on..............., improperly wrote and sent to his Commanding Officer IC-................... Rank.................... Name..........., an anonymous letter in which he made use of the following words “.........................”

No. 15
Charge-Sheet
[Section 63]
AN OMISSION PREJUDICIAL TO GOOD ORDER AND MILITARY DISCIPLINE,
in that he,
at............... between............... and ............when I/C (in charge) of Military Farm, omitted to exercise proper supervision over the stacking and the issue of .......... said farm and thereby caused a loss to the Government of Rs................

No. 16
Charge-Sheet
[Section 69]
COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, CAUSING DEATH BY A RASH OR NEGLIGENT ACT NOT AMOUNTING TO CULPABLE HOMICIDE, CONTRARY TO SECTION 304-A OF THE INDIAN PENAL CODE,
in that he,
at............... on............... by rashly or negligently driving vehicle BA No........, caused the death of Shri........................., Son of ........................., a civilian.
No. 17

Charge-Sheet

[Section 69]

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, MURDER, CONTRARY TO SECTION 302 OF THE INDIAN PENAL CODE,

in that he,

at................., on............., by intentionally causing the death of No...............

Rank............... Name............... of his unit, committed murder.