

THE PAKISTAN ARMY ACT

(XXXIX OF 1952)¹

[13th May, 1952]

An Act to consolidate and amend the law relating to the
Pakistan Army.

Preamble : Whereas it is expedient to consolidate and amend the law relating to the Pakistan Army ; it is hereby enacted as follows :—

CHAPTER I

Preliminary

1. Short title and commencement : (1) This Act may be called the Pakistan Army Act, 1952.

(2) It shall come into force on such date² as the Federal Government may, by notification in the Official Gazette, appoint in this behalf.

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

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

³[(b) persons enrolled under the Army Act, 1911 (VIII of 1911), before the date notified in pursuance of sub-sec. (2) of Sec. 1, and serving with the Pakistan Army immediately before that date, and persons enrolled under this Act ;]

1. For Statement of Objects and Reasons, see Gaz. of Pakistan, 1951, Pt. V, dated the 23rd November, 1951, p. 71 ; and for Report of Select Committee, see *ibid.*, 1952, Ext., pp. 347—400.

The Act has been extended to the whole of Pakistan by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), Sec. 3 and 2nd Sch. (with effect from the 14th October, 1955).

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

The Act, rules, notifications and orders made under it, have been applied to the Tribal Areas or to the parts of those areas to which they have not been already applied, see the Tribal Areas (Application of Acts) Reg., 1965, Gaz. of Pakistan, 1965, Ext. pp. 1016—1018.

The provisions of this Act and rules made thereunder have been applied in their application to non-commissioned officers and men of the Pakistan Mujahid Force. When embodied for or otherwise undergoing training with certain modification specified in Sch. II to rule 12 of the Pakistan Mujahid Force Rules, 1965, see Gaz., of Pakistan, 1965, Ext., pp. 1105—1107.

2. The 1st day of April, 1955, see Gaz. of Pakistan, 1955, Ext., p. 389.

3. Subs. by the Pakistan Army (Amendment) Act, 11 of 1958, Sec. 2, for the original clause (b) (with effect from the 1st April, 1952).

- ¹[(*bb*) persons subject to the ²[Pakistan Navy Ordinance, 1961 (XXXV of 1961) or the Pakistan Air Force Act, 1953 (VI of 1953) when seconded for service with the Pakistan Army, to such extent and subject to such regulations as the Federal Government may direct ;]
- (c) persons not otherwise subject to this Act, who on active service, in camp, on the march, or at any frontier post specified by the Federal 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 Pakistan Army ;
- ³[(*d*) persons not otherwise subject to this Act who are accused of—
- (*i*) seducing or attempting to seduce any person subject to this Act from his duty or allegiance to Government, or
- (*ii*) having committed, in relation to any work of defence, arsenal, naval, military or air force establishment or station, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Pakistan, an offence under the Official Secrets Act, 1932 ; or]
- ⁴[(*iii*) an offence punishable under Secs. 123, 123-A, 124-A, 143, 144, 147, 148, 152, 153-A, 188, 193, 224, 225, 283, 302, 304, 307, 325, 326, 332, 342, 353, 364, 366, 376, 392, 395, 396, 397, 431, 435 or 536 of the Pakistan Penal Code (Act XLV of 1860), or the Pakistan Arms Ordinance, 1965 (W. P. Ordinance, XX of 1965), or the Explosive Substances Act, 1908 (VI of 1908), or the Defence of Pakistan Ordinance, 1971 (XXX of 1971), or any rule made thereunder or the High Treason (Punishment) Act, 1973 (LXVIII of 1973), or the Prevention of Anti-National Activities Act, 1974 (VII of 1974), or an attempt or conspiracy to commit, or an abetment of, any of the said offences] ;
- ⁵[(*dd*) persons not otherwise subject to this Act who are accused of having done any act with intent to impair the efficiency or impede the working of, or to cause damage to,—
- (*i*) any building vehicle, machinery apparatus or other property used, or intended to be used, for the purposes of the State or any local authority ;
- (*ii*) any railway, as defined in the Railways Act, 1890 (IX of 1890), road, canal, bridge culverts, tramway, road, canal, bridge, culvert, causeway, port dockyard, lighthouse, aerodrome, or any telegraph, telegraph line or post, as defined in the Telegraph Act, 1885 (XIII of 1885), or any wireless installation ;

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1. Clause (*bb*) ins. by the Pakistan Army (Amendment) Act, 11 of 1958, Sec. 2 (with effect from 1st April, 1953).
 2. Subs. for "Pakistan Navy (Discipline) Act, 1934 (XXXIV of 1934)" by the Repealing and Amending Ordinance, 1965, Sec. 8 and 2nd Sch.
 3. Cl. (*d*) added by Defence Services Laws (Amendment) Ordinance, III of 1967.
 4. Inserted by Pakistan Army (Amendment) Act, X of 1977.
 5. Ins, *ibid*.

- (iii) any vessel or aircraft or rolling stock of a railway or tramway ;
- (iv) any building or other property used in connection with the production, distribution or supply of any essential commodity, any sewage works, mine or factory ;
- (v) any prohibited place or protected place that is punishable under any rules made under the Defence of Pakistan Ordinance, 1971 (XXX of 1971), or an attempt or conspiracy to do, or an abetment of any such act].

¹[(e) persons not otherwise subject to this Act who belonged to the former East Pakistan Civil Armed Forces and were repatriated to Pakistan after the sixteenth day of December, 1971] ;

(2) Every person subject to this Act under clause (a) or clause (b) ²[or clause (e)] of sub-sec. (1) shall remain so subject until duly retired, released, discharged, removed or dismissed from the service.

³[(3) Every person subject to this Act under clause (bb) of sub-sec. (1) shall remain so subject during the period of his secondment to the Pakistan Army.]

⁴[2-A. Secondment to Navy or Air Force : The Federal Government may by order in writing direct that any person ⁵[* * *] ⁶[referred to in clause (a) clause (b) or clause (c) of sub-sec. (1) of Sec. 2 shall, under such conditions as may be laid down by regulations, be seconded for service with the Pakistan Navy or the Pakistan Air Force.]

⁷[2-B. Secondment to the armed forces : The Federal Government may by order in writing direct that any person referred to in clause (a) of sub-sec. (1) of Sec. 2, other than a junior commissioned officer or warrant officer, shall, under such conditions as may be laid down by regulations, be seconded for service with any other armed forces raised or maintained by the Federal Government, including civil armed forces.]

3. Special provision as to rank in certain cases : The Federal Government may by notification, direct that any persons or class of persons subject to this Act under clause (c) ⁸[or clause (d)] of sub-sec. (1) of Sec. 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 with respect to any such person or to cancel such direction.

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1. Clause (e) added by Pakistan Army (Amendment) Act (LXXIII of 1975), Sec. 2 (1).
 2. Ins. *ibid.*
 3. Sub-sec. (3) added by Act 11 of 1958, Sec. 2 (with effect from the 1st April, 1952).
 4. Sec. 2-A ins. *ibid.*, Sec. 3 (with effect from the 1st April, 1952).
 5. The words "belonging to the Army Medical Corps and" omitted by the Pakistan Army (Amendment) Ordinance, 61 of 1959, Sec. 2 (with effect from the 1st April, 1955.)
 6. Subs. for the words "subject to this Act otherwise than under clause (bb)" by Defence Services Laws (Amendment) Ordinance, III of 1967.
 7. Sec. 2-B added by Pakistan Army (Amendment) Act LXXIII of 1975.
 8. Ins. by Pakistan Army (Amendment) Act, LI of 1976.

CHAPTER III

Termination of Service

16. **Dismissal or removal by Federal Government :** The Federal Government may dismiss or remove from the service any person subject to this Act.

17. **Dismissal or removal by ¹[Chief of the Army Staff] or other authorised Officer :** (1) The ¹[Chief of the Army Staff] may dismiss or remove from the service any junior commissioned officer, or warrant officer, or any person enrolled under this Act.

(2) An officer having power ²[to convene a District Court-martial or an officer not below the rank of lieutenant-colonel] empowered by the ¹[Chief of the Army Staff] in this behalf may dismiss or remove from the service any person enrolled under this Act who may be serving under his command.

18. **Retirement release, or discharge :** The prescribed authority may, in conformity with such rules as may be prescribed in this behalf, retire, release or discharge from the service any person subject to this Act.

19. **Certificate on termination of service :** Every junior commissioned officer, warrant officer, or person enrolled under this Act, who is dismissed, removed, retired, released or discharged from the service shall be furnished by his commanding officer with a certificate in the English language or such other language as he understands, setting forth, -

- (a) the authority who terminates his service ;
- (b) the cause for such termination ;
- (c) the full period of his service in the Pakistan Army.

20. **Discharge or dismissal when out of Pakistan :** (1) Any person subject to this Act, who is entitled under the conditions of his service 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 Pakistan, and requests to be sent to Pakistan, shall, before being discharged, be sent to Pakistan with all convenient speed.

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

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

Explanation : For the purposes of this section, the word "discharge" shall include retirement or release, and the word "dismissal" shall include removal.

1. Subs. for the word "Commander-in-Chief" by Federal Adaption of Laws Order, 4 of 1975.
2. Subs. for "not less than that of a brigade commander or any officer not below the rank of brigadier" by the Pakistan Army (Amendment) Ordinance (40 of 1965), Section 3.
3. Subs. for the words "transportation or imprisonment" by Pakistan Army (Amendment) Act (LI of 1976).

court-martial, be punished with rigorous imprisonment for a term which may extend to fourteen years, or with such less punishment as is in this Act mentioned.

28. Offences relating to sentries : Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) being a sentry, sleeps or is intoxicated on his post or quits it without leave ; or
- (b) being a sentry, or on guard, plunders, or wilfully destroys, or injures, any property placed under his charge or under charge of his guard ; or
- (c) strikes, or forces or attempts to force any sentry or safeguard ; or
- (d) without orders from his superior officer, leaves his guard, picquet, patrol or post ;

shall, on conviction by court-martial,

if he commits such offence on active service, be punished with rigorous imprisonment which may extend to fourteen years or with such less punishment as is in this Act mentioned ; and

if he commits such offence not on active service, be punished with rigorous imprisonment for a term which may extend to five years or with such less punishment as is in this Act mentioned.

29. House breaking, false alarms, unauthorised disclosures, punishable more severely on active service than at other times : Any person subject to this Act who—

- (a) breaks into any house or other place in search of plunder ; or
- (b) by any means whatever, intentionally occasions a false alarm ; or
- (c) without due authority, either verbally or in writing or by signals or otherwise discloses the number or position of any of the Pakistan forces, or any part thereof, or any preparation for, or orders relating to operations or movement of such forces ;

shall, on conviction by court-martial,

if he commits the offence on active service, be punished with rigorous imprisonment for a term which may extend to fourteen years, or with such less punishment as is in this Act mentioned, or

if he commits the offence not on active service, be punished with rigorous imprisonment for a term which may extend to five years or with such less punishment as is in this Act mentioned.

30. Other service offences : Any person subject to this Act who—

- (a) by any means whatever, negligently occasions a false alarm ; or
- (b) makes known the parole, watchword, or countersign to any person not entitled to receive it, or, without good and sufficient cause, gives a watchword, parole or countersign different from what he received ; or

- (c) irregularly detains or appropriates to his own unit or detachment any provisions or supplies proceeding to the forces, contrary to orders issued in that respect ;

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

31. Mutiny and insubordination : 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 person to cause, or joins in, any mutiny in the military, naval or air forces of Pakistan or any forces co-operating therewith ; or
- (b) being present at any such mutiny, does use his utmost endeavours to suppress the same ; or
- (c) knowing or having reason to believe in the existence of any such mutiny or any intention to commit such mutiny, or of any such conspiracy, does not without reasonable delay give information thereof to his commanding or other superior officer ; or
- (d) attempts to seduce any person in the military, naval or air forces of Pakistan from his duty or his allegiance to the Government of Pakistan ;

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

32. Offences in relation to superior officers : (1) Any person subject to this Act who uses or attempts to use criminal force to, or commits an assault on, his superior officer being in the execution of his office, knowing or having reason to believe him to be such, shall, on conviction by court-martial, be punished with rigorous imprisonment for a term which may extend to fourteen years, or with such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) uses or attempts to use criminal force to, or commits an assault on, his superior officer, knowing or having reason to believe him to be such ; or
- (b) is grossly insubordinate or insolent to his superior officer, knowing or having reason to believe him to be such ; or
- (c) impedes a provost marshal or any person lawfully acting on his behalf, or any member of the service police, or when called upon, refuses to assist a provost marshal or any person lawfully acting on his behalf or any member of the service police in the execution of his duty,

shall, on conviction by court-martial,

if he commits such offence on active service, be punished with rigorous imprisonment for a term which may extend to fourteen years, or with such less punishment as is in this Act mentioned ; and

36. Desertion and aiding deserters : (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 when on active service or when under orders for active service, be punished with death, or such less punishment as is in this Act mentioned ; and

if he commits the offence under any other circumstances, be punished ¹[with rigorous imprisonment for a term which may extend to five years] or with such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who knowingly harbours any deserter from any of the military, naval or air forces of Pakistan shall, on conviction by court-martial, be punished with rigorous imprisonment for a term which may extend to seven years or with such less punishment as is in this Act mentioned.

(3) Any person subject to this Act who, being cognisant of any desertion, or attempt at desertion, of any person belonging to the military, naval or air forces of Pakistan, does not forthwith give notice to his own or some other superior officer, or does not take any steps in his power to cause such person to be apprehended, shall, on conviction by court-martial, be punished with rigorous imprisonment for a term which may extend to three years or with such less punishment as is in this Act mentioned.

37. Absence without leave : Any person subject to this Act who,—

(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 the corps or unit or detachment or portion of the corps, unit or detachment 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 ²[or] without leave from his superior officer, quits the parade or line or march ; or

(f) when in camp or garrison or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any standing or routine order without a pass or written leave from his superior officer ; or

(g) without leave from his superior officer or without sufficient cause, absents himself from any school or other institution when duly ordered to attend there ;

1. Subs. by Pakistan Army (Amendment) Act (LI of 1976).

2. Subs. for the word "and" by the Pakistan Army (Amdt.) Act II of 1958, Sec. 6.

shall, on conviction by court-marshal, be punished with rigorous imprisonment for a term which may extend to ¹[three years], or with such less punishment as is in this Act mentioned.

38. Fraudulent enrolment : Any person subject to this Act who,—

- (a) without having obtained a regular discharge from the corps or unit to which he belongs, or without having otherwise fulfilled the conditions enabling him to enrol or enter, enrolls himself in, or enters the same or any other corps or unit or any part of the Pakistan Forces regular or non-regular ; or
- (b) is concerned in the enrolment in any of the Pakistan Forces, regular or non-regular, of any person whom he knows or has reason to believe to be so circumstanced that by enrolling he commits an offence against this Act or against the Air Force Act, 1932 (XIV of 1932) ²[or the Pakistan Air Force Act, 1953] or the ³[Pakistan Navy Ordinance, 1961 (XXXV of 1961)] ;

shall, on conviction by court-marshal, be punished with rigorous imprisonment for a term which may extend to five years, or with such less punishment as is in this Act mentioned.

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

40. Fraudulent offence in respect of property : Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) dishonestly misappropriates or commits theft of, or criminal breach of trust in respect of, any property belonging to the Government or any service, property or the property of any person subject to this Act, or the Air Force Act, 1932 (XIV of 1932) ²[or the Pakistan Air Force Act, 1953, (XIV of 1953)] or to the ³[Pakistan Navy Ordinance, 1961 (XXXV of 1961)], or of any person serving with or attached to any of the armed forces of Pakistan ; or
- (b) dishonestly receives or retains any stolen property of the nature specified in clause (a), knowing or having reason to believe the same to be stolen ; or
- (c) is guilty of any other act or omission with intent to defraud, or to cause wrongful gain or wrongful loss to any person ;

1. Subs. for the words 'five years' by Pakistan Army (Amendment) Act (LI of 1976).

2. Ins. by the Central Laws (Statute Reform) Ordinance. (21 of 1960), Sec. 3 and 2nd Sch. (with effect from the 14th October, 1955).

3. Subs. for "Pakistan Navy (Discipline) Act, 1934" by the Pakistan Army (Amdt.) Ordinance (40 of 1965), Sec. 5.

shall, on conviction by court-marshal, be punished with rigorous imprisonment for a term which may extend to five years, or with such less punishment as is in this Act mentioned.

41. Certain forms of disgraceful conduct : Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity ; or
- (b) with intent to render himself or any other person subject to this Act unfit for service, voluntarily causes hurt to himself or such other person ; or
- (c) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind ;

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

42. Illegal gratification : Any person subject to this Act who directly or indirectly accepts or obtains, or agrees to accept, or attempts to obtain, from any person for himself or any other person, any gratification whatever other than a legal remuneration, as a motive or reward for doing or forbearing to do any act, or for showing favour or disfavour to any person, in relation to any of the affairs of the State or of any service affairs, shall, on conviction by court-martial, be punished with rigorous imprisonment for a term which may extend to five years, or with such less punishment as is in this Act mentioned.

43. Intoxication : Any person subject to this Act who commits the following offence, that is to say, the offence of being in a state of intoxication, shall, on conviction by court-martial,

if he commits such offence on active service or while he is on duty, be punished with rigorous imprisonment for a term which may extend to five years, or with such less punishment as is in this Act mentioned ; and

if he commits such offence while not on active service or not on duty, be punished,

if he is subject to this Act as an officer, with dismissal or such less punishment as is in this Act mentioned ; and

if he is subject to this Act otherwise than as an officer, with rigorous imprisonment for a term which may extend to six months or with such less punishment as in this Act mentioned.

44. Offences in relation to persons in custody ; (1) Any person subject to this Act who, without authority, wilfully releases any prisoner or person placed in service custody, shall, on conviction by court-martial, be punished with rigorous imprisonment for a term which may extend to fourteen years, or with such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) negligently or without reasonable excuse allows any prisoner or person placed in his charge to escape, or

- (c) when it is his official duty to make a declaration respecting any service or official matter, knowingly makes a false declaration ;

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

48. Signing in blank and failure to report : Any person subject to this Act who,—

- (a) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores ¹[or] any other Government or service property, knowingly leaves in blank any material part for which his signature is a voucher ; or
- (b) refuses, or by culpable neglect omits, to make a report or return which it is his duty to make ;

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

49. Offences in relation to court-martial : Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) refuses to be sworn or affirmed when duly required by a court-martial to be sworn or affirmed ; or
- (b) refuses, when a witness, to answer any question or to produce or deliver up any book, document or other thing when duly required by a court-martial to answer such question, or to produce or deliver up such book, document or other thing ; or
- (c) 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 punished with rigorous imprisonment for a term which may extend to five years, or with such less punishment as is in this Act mentioned.

50. False statement before court-martial : Any person subject to this Act who, having been duly sworn or affirmed before any court-martial or other Military 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 punished with rigorous imprisonment for a term which may extend to ten years, or with such less punishment as is in this Act mentioned.

51. Irregular confinement : Any person subject to this Act who,—

- (1) without lawful excuse, 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
- (2) having committed a person to custody, fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within twenty-four hours thereafter, to the officer or other person into whose custody the person

1. Subs. for 'of' by Pakistan Army (Amendment) Act (LI of 1976).

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 punished with rigorous imprisonment for a term which may extend to two years or with such less punishment as is in this Act mentioned.

52. Unbecoming behaviour : 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, be liable to be dismissed from the service or to suffer such less punishment as is in this Act mentioned.

53. Striking or ill-treating person subject to the Act : Any person subject to this Act who strikes or ill-treats any person subject to this Act being his subordinate in rank or position shall, on conviction by court-martial, be punished with rigorous imprisonment for a term which may extend to five years or with such less punishment as is in this Act mentioned.

54. 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 be punished with rigorous imprisonment for a term which may extend to seven years or with such less punishment as is in this Act mentioned.

55. Violation of good order and discipline : Any person subject to this Act who is guilty of any act, conduct, disorder or neglect to the prejudice of good order and of military discipline shall, on conviction by court-martial, be punished with rigorous imprisonment for a term which may extend to five years, or with such less punishment as is in this Act mentioned.

56. Offences relating to aircraft : Any person subject to this Act who,—

- (a) voluntarily or negligently damages, destroys or loses any service, aircraft or aircraft material ; or
- (b) is guilty of any act or omission likely to cause such damage, destruction or loss ; or
- (c) without due authority disposes of any service, aircraft or aircraft material ; or
- (d) is guilty of any act or omission 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, voluntarily and without proper occasion or negligently causes sequestration, by or under the authority of a neutral State, or the destruction in a neutral State, of any service aircraft,

CHAPTER VI

Punishments

60. **Punishments :** Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by courts martial according to the scale following, that is to say,—

- (a) death ;
- (b) ¹[Imprisonment for life] ;
- (c) rigorous imprisonment for any term not exceeding fourteen years ;
- (d) dismissal from the service ;
- (e) in the case of persons other than officers, junior commissioned officers or warrant officers, detention for a period not exceeding six months ;
- (f) in the case of warrant officers, reduction in grade or class ; and in the case of non-commissioned officers, reduction to the ranks or to a lower rank ;
- (g) in the case of officers, junior commissioned officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank ; or, in the case of any of the aforesaid whose promotion depends upon length of service, forfeiture of all or any part of the service for the purpose of promotion ;
- (h) forfeiture of service for the purposes of increased pay, or any other prescribed purpose ;
- (i) in the case of officers, junior commissioned officers, warrant officers and non-commissioned officers, severe reprimand or reprimand ;
- (j) forfeiture, fines and stoppages as follows, namely :—
 - (i) in the case of a person sentenced to dismissal from the service, forfeiture of all arrears of pay and allowances and other public money due to him at the time of such dismissal ;
 - (ii) fine ;
 - (iii) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good ;

1. Subs. by the words "transportation for life" or for any period not less than 7 years by Act LI of 1976.

- (iv) for an offence committed on active service, forfeiture of pay and allowances for a period commencing on the day of the sentence and not exceeding three months :

Provided that,—

- (1) a person shall not be sentenced to ¹[imprisonment for life] or to be fined except in respect of an offence of which he is convicted under Section 59 of this Act ;
- (2) where in respect of an offence under this Act there is specified a particular punishment or such less punishment as is in this Act mentioned, there may be awarded in respect of that offence instead of such particular punishment, but subject to the other provisions of this Act and regard being had to the nature and degree of the offence, any one punishment lower in the scale than the particular punishment ; and
- (3) an offender under this Act shall not be subject to detention for more than six months whether under one or more sentences.

61. Field punishment : (1) Where any person subject to this Act, being below the rank of warrant officer, commits any offence on active service, it shall be lawful for a court-martial to award for that offence any such punishment, other than flogging, as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb.

(2) Field punishment shall, for the purpose of commutation, be deemed to stand next below detention.

62. Special provisions regarding sentences : (1) Where an officer, junior commissioned officer or warrant officer is sentenced to death, ¹[imprisonment for life] or rigorous imprisonment, the Court shall, by its sentence, sentence such officer, junior commissioned officer or warrant officer to be dismissed from the service.

(2) A person subject to this Act, being below the rank of warrant officer who is sentenced to ¹[imprisonment for life] or rigorous imprisonment, may, in addition thereto, be sentenced to be dismissed from the service.

(3) An officer, junior commissioned officer, warrant officer or non-commissioned officer, when sentenced to forfeiture of seniority of rank or service for the purposes of promotion or to forfeiture of service for the purposes of increased pay, or any other prescribed purpose, may, in addition thereto, be sentenced by court-martial to be severely reprimanded or reprimanded.

(4) In addition to, or without any other punishment, in respect of any offence, an offender may be sentenced by court-martial to any forfeiture, fine or stoppages authorised by this Act.

1. Subs. by the word 'transportation' by Act LI of 1976.

(5) A non-commissioned officer sentenced by court-martial to ¹[imprisonment for life], rigorous imprisonment, detention, field punishment or dismissal from the service shall be deemed to be reduced to the ranks.

63. Retention in the ranks of person convicted on active service :
When, on active service, any person enrolled under this Act has been sentenced by court-martial to dismissal from the service or to ¹[imprisonment for life] or rigorous imprisonment whether combined with dismissal or not, the prescribed officer, may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to ¹[imprisonment for life] or rigorous imprisonment, such service shall be reckoned as part of his term or ¹[imprisonment for life] or rigorous imprisonment.

1. Subs. by the word "transportation" by Act LI of 1976.

CHAPTER VIII

Arrest and Proceedings Before Trial

73. Custody of offenders : (1) Any person subject to this Act who is charged with any offence may be taken into military custody.

(2) Any such person may be ordered into military custody by any superior officer, or except in the case of a person subject to this Act as an officer, by any member of the military, naval or air force police.

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

74. Duty of Commanding Officer in regard to person in custody : Every commanding officer shall 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 due regard to the public service. Every case of a person detained in custody beyond a period of forty-eight hours and the reason therefor shall be reported by the commanding officer to the officer to whom application is to be made to convene a general or district Court-martial for the trial of the person charged :

Provided that in reckoning the period of forty-eight hours all public holidays shall be excluded.

75. Interval between committal and court-martial : In every case where any such person as is mentioned in Sec. 73 and as is not on active service remains in 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 eight days until a court-martial is assembled or such person is released from custody.

76. 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 that person's commanding officer.

77. Capture of deserters : (1) Whenever any person subject to this Act deserts, his commanding officer 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. 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) It shall be lawful for any police officer to arrest without warrant any person whom he reasonably believes to be subject to this Act, and to be a deserter or absentee without leave, and to bring him without delay before the nearest Magistrate, to be dealt with according to law.

78. Inquiry into absence of person subject to the Act: (1) When any person subject to this Act has been absent from his duty without due authority for a period of ¹[thirty days] a Court of Inquiry shall, as soon as practicable, be assembled and such Court shall upon 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 Federal Government entrusted to his care, or in his 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 unit to which the person belongs shall enter in the court-martial book of the corps or unit 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.

²[(3) Notwithstanding anything contained in sub-section (1), a person who after enrolment, fails to report to the corps or unit to which he is required to report within thirty days of the date on which he was required to report, the commanding officer of the corps or unit shall declare such failure and enter in the court-martial book of the corps or unit, as the case may be, a record of the declaration; and if the person in respect of whom such declaration has been made does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.]

³[78-A. Inquiry into any other matter: A Court of Inquiry may also be assembled in the prescribed manner to inquire into any matter which may be referred to it.]

Provost Marshals

79. Appointment, duties and powers of provost marshals: (1) For the prompt and instant repression of irregularities and offences committed, provost marshals with assistants may be appointed by the ⁴[Chief of the Army Staff], or by any prescribed officer.

1. Subs. for the words "Sixty days" by the Pakistan Army (Amendment) Act, LI of 1976.
2. Added by Act, LI of 1976.
3. S. 78-A ins. by the Pakistan Army (Amendment) Ordinance, 15 of 1965, Sec. 3.
4. Subs. by Federal Adaptation of Laws Order, 4 of 1975.

CHAPTER XII

Pardons, Remissions and Suspension

143. Pardons and remissions : (1) When any person subject to this Act has been convicted by a court-martial of any offence, the Federal Government or the ¹[Chief of the Army Staff] or any officer not below the rank of Brigadier empowered in this behalf by the ¹[Chief of the Army Staff] may—

- (i) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded ; or
- (ii) mitigate the punishment awarded or commute such punishment for any less punishment or punishment, mentioned in this Act :

Provided that a sentence of ²[.....] rigorous imprisonment shall not be commuted for a sentence of detention for a term exceeding the term of rigorous imprisonment awarded by the Court.

(2) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted :

Provided that, in the case of a person sentenced to ³[imprisonment for life], rigorous imprisonment, or detention, such person shall undergo only the unexpired portion of his sentence.

(3) When under the provisions of sub-section (5) of Section 62 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section, be treated as a punishment awarded by sentence of a court-martial.

144. Suspension of sentence of ³[imprisonment for life], rigorous imprisonment or detention : (1) Where a person subject to this Act has been sentenced by a court-martial to ³[imprisonment for life], rigorous imprisonment or detention, the Federal Government, or the ¹[Chief of the Army Staff] or any officer empowered to convene a general or field general court-martial may suspend the sentence whether or not the offender has already been committed to prison or custody.

- 1. Subs. by Federal Adaptation of Laws Order, 4 of 1975.
- 2. The words "transportation" shall not be commuted for a sentence of rigorous imprisonment for a term exceeding the term of transportation awarded by the Court, and a sentence of" omitted by Act, LI of 1976.
- 3. Subs. for the word "transportation" by Act, LI of 1976

(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 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, mitigated or commuted.

145. Orders pending suspension : (1) Where the sentence referred to in Section 144 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 custody until the orders of the authority or officer specified in Section 144 have been obtained.

(2) Where a sentence of rigorous imprisonment or detention is awarded by a summary court-martial, the officer holding the trial or the officer authorised to approve the sentence under the provision to Section 127 may make the direction referred to in sub-section (1).

146. Release on suspension : Where in accordance with any order passed under Section 144 a sentence is suspended, the offender shall, whether he has been committed to prison or custody or not, be released forthwith.

147. Computation of period of sentence under suspension : Any period during which a sentence is under suspension shall be reckoned as part of the term of such sentence.

148. Power to set aside suspension or to order remission : The authority or officer specified in Section 144 may, at any time whilst 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.

149. Periodical review of suspended sentence : (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 144 or by an officer not below the rank of field officer duly authorised in this behalf by the authority or officer specified in Section 144.

(2) Where on such reconsideration by the officer authorised in this behalf under sub-section (1), 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 case to the authority or officer specified in Section 144.

150. Procedure on further sentence of offender whose sentence is suspended : Where an offender, while a sentence on him is suspended, 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 a period of three months or more and is not suspended under this Act, the offender shall also be

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committed to prison or military custody on 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 committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under Section 148 or 149 continue to be suspended.

151. Scope of power of suspension: The powers conferred by Section 144 or Section 148 shall be in addition to and not in derogation of the powers of mitigation, remission or commutation of sentences.

152. Effect of suspension 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 144, then, such dismissal shall not take effect until so ordered by the authority or officer specified in Section 144.

(2) If such other sentence is remitted under Section 148 the punishment of dismissal shall also be remitted.

deceased shall, as regards any property not collected by the committee and not forming part of the aforesaid surplus, have the same rights and duties as if Sec. 158 had not been enacted.

164. Applications of Secs. 158 to 163 to lunatics, etc. : The provision of Secs. 158 to 163 shall so far as they can be made applicable, apply in the case of an officer who notwithstanding anything contained in the Lunacy Act, 1912 (IV of 1912) is ascertained in the prescribed manner, to be insane or who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained or, as the case may be, on the day on which he is officially reported missing :

Provided that, in the case of an officer, so reported missing, no action shall be taken under sub-secs. (2) to (5) of Sec. 158 until such time as he is officially presumed to be dead.

165. Appointment of standing committee of adjustment when officers die or desert while on active service : When an officer dies or deserts while on active service, the references in the foregoing sections of this Chapter to the committee shall be construed as references to the Standing Committee of Adjustment, if any, appointed in this behalf in the manner prescribed.

166. Interpretations : For the purposes of this Chapter—

(1) a person shall be deemed to be a deserter if he without authority has been absent from duty for a period of [thirty days] and has not subsequently surrendered or been apprehended ;

(2) the expression "regimental and other debts in camp or quarters" includes money due as military debts, namely, sums due in respect of, or of any advance in respect of—

(a) quarters ;

(b) mess, band and other regimental accounts ;

(c) military clothing, appointments and equipment, not exceeding a sum equal to six months' pay of the deceased and having become due within eighteen months before his death ;

(3) "representation" includes probate and letters of administration with or without the will annexed, and a succession certificate, constituting a person the executor or administrator of the estate of a deceased person or authorising him to receive or realize the assets of a deceased person ;

(4) "representative" means any person who has taken out representation.

1. Subs. for 'sixty-days' by Act, LI of 1976.

CHAPTER XIV

Miscellaneous Privileges

167. Complaint against 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 unit, troop or company, complain to the officer under whose command or orders he is serving ; and may, if attached to a unit, 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 such complaint shall examine into it for giving full redress to the complaint out, or, when necessary refer it to superior authority.

(4) Every such complaint shall be preferred in such manner and through such channels as may from time to time be specified by proper authority.

(5) The Federal Government may revise any decision by the ¹[Chief of the Army Staff] under sub-section (2), but otherwise the decision of the ¹[Chief of the Army Staff] shall be final.

168. Complaint by 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 Federal Government in such manner and through such channels as may from time to time be specified by proper authority.

169. Privileges of persons attending Courts-martial : (1) No president or member of a Court-martial, no judge, advocate, no party to any proceedings before a court-martial or his legal practitioner or agent, and no witness acting in obedience to a summons or order 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 shall be discharged by order of the court-martial.

170. Exemption from arrest for debt : (1) No person subject to this Act shall, so long as he^{is} belongs to the Pakistan Army, 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 shall examine into any complaint made by any such person or his superior officer of the

1. Subs. by Federal Adaptation of Laws Order, LI of 1976.

arrest of such person contrary to the provisions of this section, and shall, 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.

171. Property exempted from attachment : Neither the arms, clothes equipment, accoutrement 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.

172. Application of the lost two foregoing sections to reservists : Every person belonging to any of the categories of the Reserves of the Pakistan Army constituted under the Pakistan (Army and Air Force) Reserves Act, 1950, shall, when called out or engaged upon or returning from, training or service, be entitled to all the privileges accorded by Secs. 170 and 171 to a person subject to this Act.

173. Priority of hearing by Courts of cases in which persons subject to this Act are concerned : (1) On the presentation to any Court by or on behalf of any person subject to this Act of a certificate from the proper authority, that leave of absence has been granted to him or has been 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 as far as may be possible, for the hearing and final disposal of such suit or order proceeding within the period of leave so granted or applied for.

(2) The certificate from the proper authority shall state the first and the last day of leave or intended leave, and shall 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 in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the Court 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 such inability and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect of the application for such copy or of the copy itself or otherwise.

(5) If in any case a question arises as to the proper authority qualified to grant such certificate as aforesaid such question shall be at once referred by the Court to the officer commanding the corps or unit concerned, whose decision shall be final.

174. Order for custody and disposal of property pending trial in certain cases : When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of 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