

## ACT No. XX OF 1920.

[PASSED BY THE INDIAN LEGISLATIVE COUNCIL.]

*(Received the assent of the Governor General on the 23rd March, 1920.)*

An Act to consolidate and amend the law relating to the suspension of sentences passed by Courts-martial under the Indian Army Act, 1911.

WHEREAS it is expedient to consolidate and amend the law relating to the suspension of sentences of imprisonment or transportation passed by Courts-martial on persons subject to the Indian Army Act, 1911 ; It is hereby enacted as follows :—

Short title  
and construction.

1. This Act may be called the Indian Army (Suspension of Sentences) Act, 1920, and shall be construed as one with the principal Act.

Definitions.

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

(a) "committed" means committed to prison or to confinement in military custody;

(b) "competent military authority" means a superior military authority, or any general or other officer not below the rank of field officer duly authorised by a superior military authority;

(c) "imprisonment" includes confinement in military custody;

(d) "principal Act" means the Indian Army Act, 1911 ;

(e) "sentence" means a sentence of transportation or imprisonment, whether originally

ally passed on a person subject to the principal Act, or passed by way of reduction or commutation; and "sentenced" has the corresponding meaning; and

(f) "superior military authority" means the Commander-in-Chief in India or any officer empowered under the principal Act to convene general Courts-martial or summary general Courts-martial.

3. (1) Where a person subject to the principal Act is sentenced, the confirming officer when confirming the sentence, or, in the case of a sentence which does not require confirmation, the officer holding the trial or the President of the Court-martial when passing sentence may, notwithstanding anything in the principal Act, direct that such person be not committed until the orders of a superior military authority have been obtained. Suspension of sentences.

(2) A superior military authority may, in the case of any such offender so sentenced,—

(a) direct that, until his orders have been obtained, such offender shall not be committed; and

(b) suspend the sentence whether or not the offender has already been committed.

(3) Where, in accordance with any order passed under sub-section (2), a sentence is suspended, the offender shall, whether he has been committed or not, forthwith be released.

4. Any period during which a sentence is under suspension shall be reckoned as part of the term of such sentence. Calculation of periods of sentence under suspension.

5. A superior military authority may, at any time whilst a sentence is suspended under this Act, order— Power to set aside suspension or order remission.

(a) that the offender be committed to undergo the unexpired portion of the sentence, or

(b) that the sentence be remitted.

6. Where

Periodical review of suspended sentences.

6. Where a sentence has been suspended under this Act, the case may at any time, and shall at intervals of not more than four months, be re-considered by a competent military authority, and if, on any such re-consideration, it appears to such authority that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall, if he is not also a superior military authority, refer the case to a superior military authority.

Procedure on further sentence of offender whose sentence is suspended.

7. 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 a period of three months or more and is not suspended under this Act, the offender shall also be committed 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 three months or less 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 5 or section 6) continue to be suspended.

Saving of section 112, Act VIII of 1911.

8. The powers conferred by this Act shall be in addition to, and not in derogation of, any powers as to the mitigation, remission or commutation of sentences conferred by the principal Act, and a superior military authority shall, as regards persons subject to that Act, be an authority having power to mitigate, remit or commute sentences under section 112 of that Act.

Provision as to dismissal.

9. 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 this Act, then, notwithstanding anything contained

contained in the principal Act or in any rules made thereunder, such dismissal shall not take effect until so ordered by a superior military authority :

Provided that, if a sentence is remitted under this Act, the punishment of dismissal shall also be remitted.

IV of 1917.  
XVIII of  
1918.

**10.** The Indian Army (Suspension of Sentences) Act, 1917, and the Indian Army (Suspension of Sentences) Amendment Act, 1918, are hereby repealed, and all sentences which are suspended thereunder at the commencement of this Act shall be deemed to have been suspended under this Act, and the provisions of this Act shall apply accordingly :

Repeal of  
Act IV of  
1917.

Provided that all such sentences shall, on the expiry of six months from the commencement of this Act, if still under suspension, be deemed to be remitted.