

ACT No. XXXIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 31st July, 1923.)

An Act further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes.

VIII of
1911.
IV of 1912.

WHEREAS it is expedient further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Army (Amendment) Act, 1923. Short title.

VIII of
1911.

2. In section 7 of the Indian Army Act, 1911 (hereinafter referred to as the said Act),— Amendment of section 7, Act VIII of 1911

(a) to clause (1) after the words “land forces” the following words shall be added, namely:—

“and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty’s Air Force”; and

(b) in clause (7), after the words “Army Act” the words “or the Air Force Act” shall be added.

3. To section 91A of the said Act the following sub-section shall be added, namely:— Amendment of section 91A, Act VIII of 1911.

“(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to

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to 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.”

Insertion
of new sec-
tion 103A in
Act VIII of
1911.

Provision in
the case of
accused being
lunatic.

4. In Chapter VIII of the said Act, after section 103 the following section shall be inserted, namely :—

“ 103A. (1) Whenever, in the course of a trial by court-martial, it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person 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 record a finding accordingly, and the President of the Court or the officer holding the trial, as the case may be, shall forthwith report the case to the confirming officer, or, in the case of a court-martial whose finding does not require confirmation, to the prescribed officer.

(2) A confirming officer to whom a case is reported under sub-section (1) 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 originally charged.

(3) A prescribed officer to whom a case is reported under sub-section (1) 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 Governor General in Council.

(4) On receipt of a report under sub-section (3), the Governor General in Council may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(5) Where an accused person, having been found by reason of unsoundness of mind to be incapable
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of making his defence, is in custody or under detention, the prescribed officer may—

(a) if such person is in custody under sub-section (3), on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained under-sub-section (4), on a certificate such as is referred to in section 473 of the Code of Criminal Procedure, 1898,

V of 1898.

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a Criminal Court.

(6) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to the Governor General in Council."

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5. In the Indian Lunacy Act, 1912—

(a) to clause (4) of section 3 after the figures "1900" the words and figures "or of section 103A of the Indian Army Act, 1911" shall be added;

(b) in section 24, after the figures "1900" the words and figures "or under section 103A of the Indian Army Act, 1911" shall be inserted;

(c) in sub-section (1) of section 30, after the figures "1898" the words and figures "or under the provisions of section 103A of the Indian Army Act, 1911" shall be inserted; and

(d) in sub-section (2) of section 35, after the figures "1898" the words and figures "or under section 103A of the Indian Army Act, 1911" shall be inserted.

VIII of 1911

Amendment
of sections
3, 24, 30 and
35, Act IV
of 1912.