

# ACT No. XXXIII OF 1934.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 8th  
September, 1934.)

## An Act further to amend the Indian Army Act, 1911, for certain purposes.

VIII of 1911. **W**HEREAS it is expedient further to amend the Indian Army  
Act, 1911, for the purposes hereinafter appearing; It is  
hereby enacted as follows:—

1. This Act may be called the Indian Army (Amendment) Short title.  
Act, 1934.

VIII of 1911. 2. In the preamble to the Indian Army Act, 1911 (hereinafter  
referred to as the said Act), for the words "Indian officers" the  
words "Indian commissioned officers, Viceroy's commissioned  
officers" shall be substituted. Amendment  
of the pream-  
ble, Act VIII  
of 1911.

3. In section 2 of the said Act,—

(a) in clause (a) of sub-section (1), for the words "Indian  
officers" the words "Indian commissioned officers,  
Viceroy's commissioned officers" shall be substi- Amendment of  
section 2, Act  
VIII of 1911.  
tuted; and

(b) in sub-section (2), for the words "discharged or  
dismissed" the words "retired, discharged,  
cashiered, removed or dismissed from the service"  
shall be substituted.

4. In sub-section (1) of section 3 of the said Act, for the Amendment of  
section 3,  
Act VIII of  
1911.  
words "Indian officers" the words "Indian commissioned officers,  
Viceroy's commissioned officers" shall be substituted.

5. In section 7 of the said Act,—

(a) for clause (1) the following clause shall be substituted, Amendment of  
section 7, Act  
VIII of 1911.  
namely:—

"(1) 'British officer' means a person holding His  
Majesty's commission in His Majesty's Land  
Forces or in the Royal Marines or in the Terri-  
torial Army, and includes, in relation to a person  
subject to this Act when serving under such con-  
ditions as may be prescribed, a person holding a  
commission in His Majesty's Naval Forces or  
Royal Air Force;"

(b) for

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(b) for clause (2) the following clauses shall be substituted, namely:—

“(2) ‘Indian commissioned officer’ means a person commissioned, gazetted or in pay as an officer holding His Majesty’s commission in the Indian Land Forces, 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 the Indian Air Force:

(2A) ‘Viceroy’s commissioned officer’ means a person commissioned, gazetted or in pay as a Viceroy’s commissioned officer in the Indian Army:”;

(c) for clause (5) the following clause shall be substituted, namely:—

“(5) ‘officer’ means an officer of any of His Majesty’s Military Forces, and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of any of His Majesty’s Naval or Air Forces, but does not include a warrant officer, petty officer or non-commissioned officer:”;

(d) in clause (6), after the words “British officer” the words “or Indian commissioned officer” shall be inserted;

(e) in clause (7), for the words “a warrant officer or non-commissioned officer subject to the Army Act or the Air Force Act” the words “an officer, warrant officer, petty officer or non-commissioned officer of any of His Majesty’s Naval, Military or Air Forces” shall be substituted;

(f) to clause (8) the words “or His Majesty’s Indian Forces” shall be added; and

(g) in clause (14), after the word “service” the words “and includes air force custody” shall be inserted.

6. In section 10 of the said Act, after the words “military pay” the words “as an enrolled person” shall be inserted.

7. Section 13 of the said Act shall be re-numbered as sub-section (1) of section 13, and in that section as so re-numbered,—

(a) the words “or the Commander-in-Chief in India” shall be omitted, and

(b) the following sub-section shall be added, namely:—

“(2) The Commander-in-Chief in India may dismiss from the service any person subject to this Act other than an Indian commissioned officer.”

8. In

Amendment of section 10, Act VIII of 1911.

Amendment of section 13, Act VIII of 1911.

Words  
titles  
Act.

of 1934.]

*Indian Army (Amendment).*

8. In section 14 of the said Act, the word "Indian" shall be omitted. Amendment of section 14, Act VIII of 1911.

9. In sub-section (1) of section 19 of the said Act,— Amendment of section 19, Act VIII of 1911.

(a) after the words "to the ranks" the words "any warrant officer or" shall be inserted; and

(b) the following proviso shall be added, namely:—

"Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy."

10. In section 21 of the said Act, for the words "Indian officers" the words "Viceroy's commissioned officers, warrant officers" shall be substituted. Amendment of section 21, Act VIII of 1911.

11. In clause (b) of section 36 of the said Act, after the word and figures "section 117" the words, figures and letter "or section 117A" shall be inserted. Amendment of section 36, Act VIII of 1911.

12. (1) Section 41 of the said Act shall be re-numbered as sub-section (1) of section 41. Amendment of section 41, Act VIII of 1911.

(2) In the said section as so re-numbered,—

(a) after the words "Every person subject to this Act who" the words "either within British India or" shall be inserted;

(b) the words ", or when on active service in British India," shall be omitted; and

(c) the following proviso shall be added, namely:—

"Provided that a person subject to this Act who at any place within British India or at any place, other than such frontier posts as may be specified by the Governor General in Council by notification in this behalf, in which the Governor General in Council exercises jurisdiction by virtue of the Indian (Foreign Jurisdiction) Order in Council, 1902, and while not on active service, commits the offence of murder or culpable homicide not amounting to murder in relation to a person not subject to military law or the offence of rape, shall not be deemed to be guilty of an offence against military law and shall not be tried by a court-martial."

(3) To the said section as so re-numbered and amended the following sub-section shall be added, namely:—

"(2) The powers of a court-martial to try and to punish any person under this section shall not be affected

by

by reason of the fact that the civil offence with which such person is charged is also a military offence."

Omission of section 42, Act VIII of 1911.  
Amendment of section 43, Act VIII of 1911.

13. Section 42 of the said Act shall be omitted.

14. In section 43 of the said Act,—

(a) after clause (c) the following clause shall be inserted, namely:—

"(cc) in the case of Indian commissioned officers, cashiering;";

(b) clause (e) shall be omitted;

(c) for clause (f) the following clause shall be substituted, namely:—

"(f) reduction, in the case of a warrant officer, to a lower grade or class or place in the list of his rank, or to the ranks; or in the case of a non-commissioned officer, to a lower grade or a lower rank or to the ranks:

Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy;";

(d) in clause (g), for the words "of seniority of rank" the words "in the prescribed manner of seniority of rank and service for the purpose of promotion" shall be substituted;

(e) in clause (gg), after the word "officers," the words "warrant officers and non-commissioned officers," shall be inserted; and

(f) in clause (h),—

(i) in sub-clause (i), the word "promotion," shall be omitted,

(ii) sub-clause (ii) shall be omitted, and

(iii) in sub-clause (iii), after the words "sentenced to" and after the word "such" the words "cashiering or" shall be inserted.

Amendment of section 47, Act VIII of 1911.

15. In section 47 of the said Act, for the words "any one or more of the punishments specified in clauses (d), (f), (gg) and (h) of section 43" the following words shall be substituted, namely:—

"the punishment specified in clause (cc) or clause (d) and any one or more of the punishments specified in clauses (f), (g), (gg) and (h) of section 43".

16. After

or 1934.]

*Indian Army (Amendment).*

16. After section 47 of the said Act the following section shall be inserted, namely:—

“47A. Whenever an Indian commissioned officer is sentenced to transportation or imprisonment, the court shall by its sentence sentence such officer to be cashiered.”

Insertion of new section 47A in Act VIII of 1911.

Cashiering of Indian commissioned officer on conviction.

17. In section 49 of the said Act, for the words “A non-commissioned officer” the words “A warrant officer or a non-commissioned officer” shall be substituted.

Amendment of section 49, Act VIII of 1911.

18. In section 49A of the said Act, for the words “any person” the words “any enrolled person” shall be substituted.

Amendment of section 49A, Act VIII of 1911.

19. (1) Section 50 of the said Act shall be re-numbered as sub-section (2) of section 50 and in that section as so re-numbered, after the words “a person subject to this Act”, in both places where they occur, the words “other than an Indian commissioned officer” shall be inserted.

Amendment of section 50, Act VIII of 1911.

(2) The following sub-section shall be inserted as sub-section (1) of section 50, namely:—

“(1) The following penal deductions may be made from the pay and allowances of an Indian commissioned officer, that is to say,—

- (a) all pay and allowances for every day of absence without leave, unless a satisfactory explanation has been given through his Commanding Officer and has been approved by the Governor General in Council;
- (b) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of any offence as may be determined by the court-martial by whom he is convicted of such offence;
- (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 any loss, damage or destruction of public or regimental property which after due investigation appears to the Governor General in Council to have been occasioned by any wrongful act or negligence on the part of the Indian commissioned officer;
- (e) any sum ordered by a court-martial to be stopped under section 43.”

20. For

Substitution of new section for section 57, Act VIII of 1911.

Composition of general courts-martial.

20. For section 57 of the said Act the following section shall be substituted, namely:—

“57. A general court-martial shall consist of not less than five British officers or Indian commissioned 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.”

Amendment of section 58, Act VIII of 1911.

21. In section 58 of the said Act, for the word “officers” the words “British officers or Indian commissioned officers” shall be substituted.

Omission of section 59, Act VIII of 1911.

22. Section 59 of the said Act shall be omitted.

Substitution of new section for section 60, Act VIII of 1911.

23. For section 60 of the said Act, the following section shall be substituted, namely:—

“60. A general, summary general or district court-martial may be composed of either British officers or Indian commissioned officers or of both British officers and Indian commissioned officers.”

Composition of general, summary general or district court-martial.

24. Section 61 of the said Act shall be omitted.

Omission of section 61, Act VIII of 1911.

Amendment of section 63, Act VIII of 1911.

25. In section 63 of the said Act, for the word “officers” the words “British officers or Indian commissioned officers” shall be substituted.

Amendment of section 65, Act VIII of 1911.

26. In section 65 of the said Act, the proviso to sub-section (1) shall be omitted.

Amendment of section 67, Act VIII of 1911.

27. In section 67 of the said Act, after the words “the person in question” the brackets and words “(not being an Indian commissioned officer)” shall be inserted.

Amendment of section 73, Act VIII of 1911.

28. To section 73 of the said Act the following proviso shall be added, namely:—

“Provided that a district court-martial shall not award to a warrant officer any punishment other than the punishment specified in clause (h) of section 43 or, either in addition to or in substitution for any such punishment, the punishment specified in clause (d) or the punishment specified in clause (f) of that section.”

Amendment of section 74, Act VIII of 1911.

29. In clause (a) of the proviso to section 74 of the said Act for the figures and word “41 or 42” the word and figures “or 41” shall be substituted.

Omission of section 79, Act VIII of 1911.

30. Section 79 of the said Act shall be omitted.

Amendment of section 82, Act VIII of 1911.

31. In section 82 of the said Act, the words “or superintending officer” shall be omitted.

32. In

32. In sub-section (1) of section 84 of the said Act, the words "before the court" shall be omitted. Amendment of section 84, Act VIII of 1911.
33. In sub-section (4) of section 86 of the said Act, the words and figures "or section 42" shall be omitted. Amendment of section 86, Act VIII of 1911.
34. Section 105 of the said Act shall be omitted. Omission of section 105, Act VIII of 1911.
35. In section 107 of the said Act, the word "rigorous", wherever it occurs, shall be omitted. Amendment of section 107, Act VIII of 1911.
36. In section 108 of the said Act, the words and figures "section 105 or" shall be omitted. Amendment of section 108, Act VIII of 1911.
37. In section 111A of the said Act, the words and figures "or section 42" shall be omitted. Amendment of section 111 A, Act VIII of 1911.
38. In sub-section (3) of section 112 of the said Act, before the words "a non-commissioned officer" the words "a warrant officer or" shall be inserted. Amendment of section 112, Act VIII of 1911.
39. In clause (a) of sub-section (2) of section 113 of the said Act, for the word "discharge" the words "removal, retirement or discharge" shall be substituted. Amendment of section 113, Act VIII of 1911.
40. In section 117 of the said Act,—
- (a) in sub-section (1), after the words "Any person subject to this Act" the words "other than an Indian commissioned officer" shall be inserted; and
- (b) to sub-section (3), the following proviso shall be added, namely:—
- "Provided that a decision by an authority competent to dispose of the matter complained of shall be final."
41. After section 117 of the said Act the following section shall be inserted, namely:—
- "117A. Any Indian commissioned 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 Governor General in Council."
42. In sub-section (1) of section 118 of the said Act, the words "or superintending officer" shall be omitted. Amendment of section 118, Act VIII of 1911.
- Insertion of new section 117A in Act VIII of 1911.
- Complaints by Indian commissioned officers.