

ACT No. XIV OF 1943.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 7th April, 1943.)

An Act further to amend the Indian Army Act, 1911, and the Indian Air Force Act, 1932.

WHEREAS it is expedient further to amend the Indian Army Act, 1911 (VIII of 1911), and the Indian Air Force Act, 1932 (XIV of 1932), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Army and Air Force (Military Prisons and Detention Barracks) Act, 1943.

2. *Amendment of section 107, Act VIII of 1911.*—For section 107 of the Indian Army Act, 1911 (VIII of 1911), the following section shall be substituted, namely:—

“107. *Execution of sentence of transportation or imprisonment.*—(1) Whenever any sentence of transportation is passed under this Act or whenever any sentence so passed is commuted to transportation, 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 forward him to such prison with the warrant.

(2) Whenever any sentence of imprisonment is passed under this Act or whenever any sentence so passed is commuted to imprisonment, the confirming officer, or in the case of a sentence which does not require confirmation, the Court or in either case such officer as may be prescribed may direct either that the sentence shall be carried out by confinement in a civil prison or by confinement in a military prison, and 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 the person under sentence is to be confined and shall forward him to such prison with the warrant:

Provided that in the case of a sentence of imprisonment for a period not exceeding three months, in lieu of a direction that the sentence shall be carried out by confinement in a civil or a military prison, a direction may be made that the sentence shall be carried out by confinement in military custody:

Provided further that 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.”

3. *Substitution of new section for section 109, Act VIII of 1911.*—For section 109 of the Indian Army Act, 1911 (VIII of 1911), the following section shall be substituted, namely:—

“109. *Communication 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 prescribed officer to the officer in charge of the prison in which such person is confined.”

4. *Addition of new section 111B, Act VIII of 1911.*—To Chapter IX of the Indian Army Act, 1911 (VIII of 1911), after section 111A, the following section shall be added, namely:—

“111B. *Establishment and regulation of military prisons.*—(1) 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.

(2) The Central Government may make rules providing—

- (a) for the government, management and regulation of such military prisons;
- (b) for the appointment and 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; and

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(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:

Provided that such rules 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 in British India.

(3) Rules made under this section may provide 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 prisoners."

5. *Substitution of new section for section 113, Act XIV of 1932.*—For section 113 of the Indian Air Force Act, 1932 (XIV of 1932), the following section shall be substituted, namely:—

"113. *Execution of sentence of imprisonment.*—Whenever any sentence of imprisonment is passed under this Act, or whenever any sentence so passed is commuted to imprisonment, the confirming officer, or, in the case of a sentence which does not require confirmation, the Court or in either case such officer as may be prescribed may direct either that the sentence shall be carried out by confinement in a civil prison or by confinement in a military or air force prison, and 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 the person under sentence is to be confined, and shall forward him to such prison with the warrant:

Provided that in the case of a sentence of imprisonment for a period not exceeding three months, in lieu of a direction that the sentence shall be carried out by confinement in a civil, military or air force prison, a direction may be made that the sentence shall be carried out by confinement in air force custody:

Provided further that 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."

6. *Addition of new section 119A, Act XIV of 1932.*—To Chapter IX of the Indian Air Force Act, 1932 (XIV of 1932), after section 119, the following section shall be added, namely:—

"119A. *Establishment and regulation of air force prisons and detention barracks.*—(1) The Central Government may set apart any building or part of a building or any place under its control as an air force prison or detention barracks for the confinement of persons sentenced to imprisonment or detention under this Act.

(2) The Central Government may by rules provide—

(a) for the government, management and regulation of such air force prisons and detention barracks;

(b) for the appointment and removal and powers of inspectors, visitors, governors and officers thereof;

(c) for the labour of prisoners and persons undergoing detention therein and for enabling such prisoners or persons to earn by special industry and good conduct a remission of a portion of their sentence; and

(d) for the safe custody of such prisoners or persons and the maintenance of discipline among them and the punishment by personal correction, restraint or otherwise, of offences committed by them:

Provided that such rules shall not authorise corporal punishment to be inflicted for any offence nor render the imprisonment or detention more severe than it is under the law for the time being in force relating to civil prisons in British India.

(3) Rules made under this section may provide for the application to air force prisons or detention barracks 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 prisoners."