

Act No. XVII of 1948

[PASSED BY THE DOMINION LEGISLATURE]

An Act further to amend the Indian Army Act, 1911 and the Indian Air Force Act, 1932, for certain purposes and to make certain consequential amendments to the Administrator General's Act, 1913.

(Received the assent of the Governor-General on the 29th March 1948)

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 and to make certain consequential amendments to the Administrator General's Act, 1913 (LII of 1913);

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Indian Army and the Indian Air Force (Amendment) Act, 1948.

2. **Amendment of section 114, Act VIII of 1911.**—In section 114 of the Indian Army Act, 1911,—

(i) in the opening paragraph for the word "rules" the word "provisions" shall be substituted and after the words "this Act" the words "not being an Indian commissioned officer," shall be inserted;

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

"(2) In the case of a deceased person who has left in a bank (including any post office savings bank, co-operative bank or society or any other institution receiving deposits in money, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the agent, manager or other proper officer of such bank, society or other institution to pay the deposit to him forthwith, notwithstanding anything in any rules of the bank, society or other institution and when any money has been paid by such bank, society or other institution in compliance with such requisition, no person shall have any claim against the bank, society or other institution in respect of such money";

(iii) in clause (4) after the words "cause the moveable property to be sold by public auction" the words "and may convert into money any cash certificates (including post office cash certificates, defence savings certificates and national savings certificates)" and after the words "proceeds of the sale" the words "or conversion" shall be inserted;

(iv) clause (7) and the *Explanations* shall be omitted and clause (8) shall be renumbered (7);

(v) in clause (7) as so renumbered the words "or the Standing Committee of Adjustment, as the case may be" shall be omitted and after the words "a deceased person" the words "or deserter" shall be inserted.

3. **Substitution of new sections for section 116, Act VIII of 1911.**—For section 116 of the Indian Army Act, 1911, the following sections shall be substituted, namely:—

"116. *Application of sections 114 and 115 to lunatics, etc.*—The provisions of sections 114 and 115 shall, so far as they can be made applicable, apply in the case of a person subject to this Act, not being an Indian commissioned officer, who, notwithstanding anything contained in the Indian 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 a person so reported missing no action shall be taken under clauses (2) to (5), inclusive, of section 114 until such time as such person is officially presumed to be dead.

116A. *Property of Indian commissioned officers who die or desert.*—The provisions of sections 116B to 116L, inclusive, shall apply to the disposal of the property of Indian commissioned officers subject to this Act, who die or desert.

116B. *Powers of Committee of Adjustment.*—(1) On the death or desertion of an Indian commissioned officer, a Committee of Adjustment appointed in this behalf in the manner prescribed (hereinafter referred to as the Committee) shall, as soon as may be, subject to the rules made in this behalf under this Act,—

(a) secure all the moveable property belonging to the deceased or deserter, that is in camp or quarters, and cause an inventory thereof to be made, and ascertain and draw the pay and allowances, if any, due to him; and

(b) ascertain the amount, and provide for the payment, of the regimental and other debts in camp or quarters (if any) of the deceased or deserter.

(2) In the case of a deceased Indian commissioned officer whose representative, widow (if any) or next of kin has given security to the satisfaction of the Committee for the payment of the regimental and other debts in camp or quarters (if any) of the deceased, the Committee shall deliver any property received by it under sub-section (1) to that representative, widow or next of kin, as the case may be, and shall not further interfere in relation to the property of the deceased.

(3) In the case of a deceased Indian commissioned officer, the Committee, save as may be prescribed, shall, if it appears to it necessary for the payment of regimental and other debts in camp or quarters and the expenses, if any, incurred by the Committee, and may, in any other case, collect all moneys left by the deceased in any bank (including any post office savings bank, co-operative bank or society or any other institution receiving deposits in money, however named) and for that purpose may require the agent, manager or other proper officer of such bank, society or other institution to pay the moneys to the Committee forthwith, and such agent, manager or other officer shall be bound to comply with the requisition notwithstanding anything in any rules of the bank, society or other institution, and when any money has been paid by a bank, society or other institution in compliance with the requisition under this sub-section, no person shall have a claim against the bank, society or other institution in respect of such money.

(4) In the case of a deceased Indian commissioned officer whose estate has not been dealt with under sub-section (2) and in the case of a deserter, the Committee, subject to any rules made in this behalf under this Act, shall, for the purpose of paying the regimental and other debts in camp or quarters, and may in any other case, sell or convert into money the moveable property of the deceased or deserter.

(5) The Committee shall, out of the moneys referred to in sub-sections (3) and (4), pay the regimental and other debts in camp or quarters (if any) of the deceased or deserter.

(6) In the case of a deceased Indian commissioned officer the surplus (if any) shall be remitted to the prescribed person.

(7) In the case of an Indian commissioned officer who is a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to the Central Government unless the deserter shall in the meantime have surrendered or been apprehended:

Provided that the prescribed person may pay the whole or such part of the surplus as he may deem proper to the wife or children or other dependents of the commissioned officer.

(8) If in any case a doubt or difference arises as to what are the regimental and other debts in camp or quarters of a deceased officer or deserter or as to the amount payable therefor, the decision of the prescribed person shall be final and shall be binding on all persons for all purposes.

(9) For the purpose of the exercise of its duties under this section, the Committee shall, to the exclusion of all authorities and persons whomsoever, have the same rights and powers as if it had taken out representation to the deceased, and any receipt given by the Committee shall have effect accordingly.

116C. Power of Central Government to hand over the estate of a deceased officer to Administrator General.—(1) Notwithstanding anything contained in the Administrator General's Act, 1913 (III of 1913), an Administrator General shall not interpose in any manner in relation to any property of a deceased Indian commissioned officer which has been dealt with under the provisions of section 116B except in so far as he is expressly required or permitted to do so by or under the provisions contained in this Chapter.

(2) The Central Government may at any time and in such circumstances as it thinks fit direct that the estate of a deceased Indian commissioned officer shall be handed over by the Committee to the Administrator General of a Province for administration and thereupon the Committee shall make over the estate to such Administrator General.

(3) Where under this section any estate is handed over to the Administrator General he shall administer the estate in accordance with the provisions of the Administrator General's Act, 1913 (III of 1913):

Provided that the regimental and other debts in camp or quarters of the deceased officer (if any) shall be paid in priority to any other debt due by him.

(4) The Administrator General shall pay the surplus, if any, remaining in his hands after discharging all debts and charges, to the heirs of the deceased and, if no heir is traceable, shall remit such surplus to the prescribed person in the prescribed manner.

(5) The Administrator General shall not charge in respect of his duties any fee exceeding three per cent. of the gross amount coming to or remaining in his hands after payment of the regimental and other debts in camp or quarters.

116D. Disposal of surplus by the prescribed person.—On receipt of the surplus referred to in sub-section (6) of section 116B or sub-section (4) of section 116C, the prescribed person shall proceed as follows:—

(1) If he knows of a representative of the deceased, he shall pay the surplus to that representative.

(2) If he does not know of any such representative, he shall publish every year a notice in the prescribed form and manner for six consecutive years. If no claim to the surplus is made by a representative of

the deceased within six months after the publication of the last of such notices the prescribed person shall deposit the surplus together with any income or accumulation of income accrued therefrom to the credit of the Central Government:

Provided that such deposit shall not bar the claim of any person to such surplus or any part thereof.

116E. *Disposal of effects not money.*—Where any part of the estate of a deceased Indian commissioned officer consists of effects, securities or other property not converted into money, the provisions of section 116B and section 116D with respect to paying the surplus shall, save as may be prescribed, extend to the delivery, transmission or transfer of such effects, securities or property, and the prescribed person shall have the same power of converting the same into money as a representative of the deceased.

116F. *Disposal of certain property without production of probate, etc.*—Property deliverable and money payable to the representative of a deceased Indian commissioned officer under section 116B or section 116D may, if the total amount or value thereof does not exceed five thousand rupees, and, if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, succession certificate or other such conclusive evidence of title.

116G. *Discharge of Committee, prescribed person and the Crown.*—Any payment of money or delivery, application, sale or other disposition of any property or money made, or purported to be made, by the Committee or the prescribed person in good faith in pursuance of section 116B, section 116D, section 116E or section 116F shall be valid and shall be a full discharge to the Committee or the prescribed person, as the case may be, and to the Crown from all further liability in respect of that money or property; but nothing herein contained shall affect the right of any executor or administrator or other representative, or of any creditor of the deceased officer against any person to whom such payment or delivery has been made.

116H. *Property in the hands of the Committee or the prescribed person not to be assets at the place where the Committee or the prescribed person is stationed.*—Any property coming under section 116B or under sub-section (4) of section 116C into the hands of the Committee or the prescribed person shall not, by reason of so coming, be deemed to be assets or effects at the place in which that Committee or the prescribed person is stationed and it shall not be necessary by reason thereof that representation be taken out in respect of that property for that place.

116I. *Saving of rights of representative.*—After the Committee has deposited with the prescribed person the surplus of the property of any deceased officer under sub-section (6) of section 116B, any representative of the deceased or any Administrator General, shall, as regards any property of the deceased not collected by the Committee and not forming part of the aforesaid surplus, have the same rights and duties as if section 116B had not been enacted.

116J. *Application of sections 116B to 116I to lunatics, etc.*—The provisions of sections 116B to 116I shall, so far as they can be made applicable, apply in the case of an Indian commissioned officer who, notwithstanding anything contained in the Indian 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-sections (2) to (5) of section 116B or under section 116C until such time as he is officially presumed to be dead.

116K. *Appointment of Standing Committee of Adjustment when officers die or desert while on active service.*—When an Indian commissioned officer dies or deserts while on active service, the references in the foregoing provisions 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.

116L. *Interpretation.*—For the purposes of this Chapter—

(1) 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 equipments, not exceeding a sum equal to three months' pay of the deceased, and having become due within eighteen months before his death;

(2) '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;

(3) 'representative' means any person who has taken out representation but does not include an Administrator General."

4. *Amendment of section 126, Act XIV of 1932.*—In section 126 of the Indian Air Force Act, 1932,—

(i) in the opening paragraph for the word "rules" the word "provisions" shall be substituted and after the words "this Act" the words "not being an officer or warrant officer of the Indian Air Force," shall be inserted;

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

"(2) In the case of a deceased person who has left in a bank (including any post office savings bank, co-operative bank or society or any other institution receiving deposits in money, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the agent, manager or other proper officer of such bank or other institution to pay the deposit to him forthwith, notwithstanding anything in any rules of the bank or the other institution and when any money has been paid by such bank or other institution in compliance with such requisition, no person shall have any claim against the bank or the other institution in respect of such money";

(iii) in clause (4) after the words "cause the moveable property to be sold by public auction" the words "and may convert into money any cash certificates (including post office cash certificates, defence savings certificates and national savings certificates)" and after the words "proceeds of the sale" the words "or conversion", shall be inserted;

(iv) clause (7) and the *Explanations* shall be omitted and clause (8) shall be renumbered (7);

(v) in clause (7) as so renumbered the words "or the Standing Committee of Adjustment, as the case may be" shall be omitted and after the words "a deceased person" the words "or deserter" shall be inserted.

5. Substitution of new Sections for section 128, Act XIV of 1932.—For section 128 of the Indian Air Force Act, 1932, the following sections shall be substituted, namely:—

“128. *Application of sections 126 and 127 to lunatics, etc.*—The provisions of sections 126 and 127 shall, so far as they can be made applicable, apply in the case of a person subject to this Act (not being an officer or warrant officer of the Indian Air Force) who notwithstanding anything contained in the Indian 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 a person so reported missing, no action shall be taken under clauses (2) to (5) inclusive of section 126 until such time as such person is officially presumed to be dead.

128A. *Property of officers of the Indian Air Force who die or desert.*—The provisions of sections 128B to 128I shall apply to the disposal of the property of the officers and warrant officers of the Indian Air Force who die or desert.

128B. *Powers of Committee of Adjustment.*—(1) On the death or desertion of an officer or warrant officer of the Indian Air Force, a Committee of Adjustment appointed in this behalf in the manner prescribed (hereinafter referred to as the Committee) shall, as soon as may be, subject to the rules made in this behalf under this Act,—

(a) secure all the moveable property belonging to the deceased or deserter, that is in camp or quarters, and cause an inventory thereof to be made, and ascertain and draw the pay and allowances, if any, due to him; and

(b) ascertain the amount, and provide for the payment, of the service and other debts in camp or quarters (if any) of the deceased or deserter.

(2) In the case of a deceased officer or warrant officer whose representative, widow (if any) or next of kin has given security to the satisfaction of the Committee for the payment of the service and other debts in camp or quarters (if any) of the deceased, the Committee shall deliver any property received by it under sub-section (1) to that representative, widow or next of kin, as the case may be, and shall not further interfere in relation to the property of the deceased.

(3) In the case of a deceased officer or warrant officer, the Committee, save as may be prescribed shall, if it appears to it necessary for the payment of service and other debts in camp or quarters and the expenses, if any, incurred by the Committee, and may, in any other case, collect all moneys left by the deceased in any bank (including any post office savings bank, co-operative bank or society or any other institution receiving deposits in money, however named) and for that purpose may require the agent, manager or other proper officer of such bank, society or other institution to pay the moneys to the Committee forthwith, and such agent, manager or other officer shall be bound to comply with the requisition notwithstanding anything in any rules of the bank or other institution; and when any money has been paid by a bank or other institution in compliance with the requisition under this sub-section, no person shall have a claim against the bank or other institution in respect of such money.

(4) In the case of a deceased officer or warrant officer whose estate has not been dealt with under sub-section (2) and in the case of a deserter the Committee, subject to any rules made in this behalf under this Act, shall, for the purpose of paying the service and other debts in camp or quarters, and may, in any other case, sell or convert into money the moveable property of the deceased or deserter.

(5) The Committee shall, out of the moneys referred to in sub-sections (3) and (4), pay the service and other debts in camp or quarters (if any) of the deceased or deserter.

(6) In the case of a deceased officer or warrant officer, the surplus (if any) shall be remitted to the prescribed person.

(7) In the case of an officer or warrant officer who is a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to the Central Government unless the deserter shall in the meantime have surrendered or been apprehended:

Provided that the prescribed person may pay the whole or such part of the surplus as he may deem proper to the wife or children or other dependents of the officer or warrant officer.

(8) If in any case a doubt or difference arises as to what are the service and other debts in camp or quarters of a deceased officer or deserter or as to the amount payable therefor, the decision of the prescribed person shall be final and shall be binding on all persons for all purposes.

(9) For the purpose of the exercise of its duties under this section, the Committee shall, to the exclusion of all authorities and persons whomsoever, have the same rights and powers as if it had taken out representation to the deceased, and any receipt given by the Committee shall have effect accordingly.

128C. *Powers of Central Government to hand over the estate of a deceased officer to Administrator General.*—(1) Notwithstanding anything contained in the Administrator General's Act, 1913 (III of 1913), an Administrator General shall not interpose in any manner in relation to any property of a deceased officer or warrant officer which has been dealt with under the provisions of section 128B except in so far as he is expressly required or permitted to do so by or under the provisions contained in this Chapter.

(2) The Central Government may at any time and in such circumstances as it thinks fit direct that the estate of a deceased officer or warrant officer shall be handed over by the Committee to the Administrator General of a Province for administration and thereupon the Committee shall make over the estate to such Administrator General.

(3) Where under this section any estate is handed over to the Administrator General, he shall administer the estate in accordance with the provisions of the Administrator General's Act, 1913 (III of 1913):

Provided that the service and other debts in camp or quarters of the deceased officer (if any) shall be paid in priority to any other debt due by him.

(4) The Administrator General shall pay the surplus, if any, remaining in his hands after discharge of all debts and charges, to the heirs of the deceased and, if no heir is traceable, shall remit such surplus to the prescribed person in the prescribed manner.

(5) The Administrator General shall not charge in respect of his duties any fee exceeding three per cent. of the gross amount coming to or remaining in his hands after payment of the service and other debts in camp or quarters.

128D. *Disposal of surplus by the prescribed person.*—On receipt of the surplus referred to in sub-section (6) of section 128B or sub-section (4) of section 128C, the prescribed person shall proceed as follows:—

(1) If he knows of a representative of the deceased, he shall pay the surplus to that representative.

(2) If he does not know of any such representative, he shall publish every year a notice in the prescribed form and manner for six consecutive years. If no claim to the surplus is made by a

representative of the deceased within six months after the publication of the last of such notices, the prescribed person shall deposit the surplus together with any income or accumulation of income accrued therefrom to the credit of the Central Government:

Provided that such deposit shall not bar the claim of any person to such surplus or any part thereof.

128E. *Disposal of effects not money.*—Where any part of the estate of a deceased officer or warrant officer consists of effects, securities or other property not converted into money, the provisions of section 128B and section 128D with respect to paying the surplus shall, save as may be prescribed, extend to the delivery, transmission or transfer of such effects, securities or property, and the prescribed person shall have the same power of converting the same into money as a representative of the deceased.

128F. *Disposal of certain property without production of probate, etc.*—Property deliverable and money payable to the representative of a deceased officer or warrant officer under section 128B or section 128D may, if the total amount or value thereof does not exceed five thousand rupees, and, if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, succession certificate or other such conclusive evidence of title.

128G. *Discharge of Committee, prescribed person and the Crown.*—Any payment of money or delivery, application, sale or other disposition of any property or money made, or purported to be made by the Committee or the prescribed person in good faith in pursuance of section 128B, section 128D, section 128E or section 128F shall be valid and shall be a full discharge to the Committee or the prescribed person, as the case may be, and to the Crown from all further liability in respect of that money or property; but nothing herein contained shall affect the right of any executor or administrator or other representative, or of any creditor of the deceased officer or warrant officer against any person to whom such payment or delivery has been made.

128H. *Property in the hands of the Committee or the prescribed person not to be assets at the place where the Committee or the prescribed person is stationed.*—Any property coming under section 128B or under sub-section (4) of section 128C into the hands of the Committee or the prescribed person shall not, by reason of so coming, be deemed to be assets or effects at the place in which that Committee or the prescribed person is stationed and it shall not be necessary by reason thereof that representation be taken out in respect of that property for that place.

128I. *Saving of rights of representative.*—After the Committee has deposited with the prescribed person the surplus of the property of any deceased officer or warrant officer under sub-section (6) of section 128B, any representative of the deceased or any Administrator General, shall, as regards any property of the deceased not collected by the Committee and not forming part of the aforesaid surplus, have the same rights and duties as if section 128B had not been enacted.

128J. *Application of sections 128B to 128I to lunatics, etc.*—The provisions of sections 128B to 128I shall, so far as they can be made applicable, apply in the case of an officer or warrant officer of the Indian Air Force who, notwithstanding anything contained in the Indian 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 or warrant officer so reported missing no action shall be taken under sub-sections (2) to (5) of section 128B or under section 128C until such time as he is officially presumed to be dead.

128K. Appointment of Standing Committee of Adjustment when officers die or desert while on active service.—When an officer or warrant officer dies or deserts while on active service, the references in the foregoing provisions 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.

128L. Interpretation.—For the purposes of this Chapter—

(1) the expression 'service and other debts in camp or quarters' includes money due as air force debts, namely, sums due in respect of, or of any advance in respect of—

(a) quarters;

(b) mess, band, and other service accounts;

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

(2) '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;

(3) 'representative' means any person who has taken out representation but does not include an Administrator General."

6. Amendment of sections 15, 16 and 17, Act III of 1913.—In the Administrator General's Act, 1913,—

(i) to section 15, after the words and figures "Regimental Debts Act, 1893" the words and figures "the Indian Army Act, 1911 (VIII of 1911) or the Indian Air Force Act, 1932 (XIV of 1932)" shall be added;

(ii) in section 16, after the words and figures "the Regimental Debts Act, 1893" the words and figures "the Indian Army Act, 1911 (VIII of 1911) or the Indian Air Force Act, 1932 (XIV of 1932)" shall be inserted; and

(iii) in section 17,—

(a) after the words and figures "the Regimental Debts Act, 1893", at both places where they occur, the words and figures "the Indian Army Act, 1911, or the Indian Air Force Act, 1932" shall be inserted; and

(b) after the words "subject to the Army Act or the Air Force Act" the words and figures "or of an Indian commissioned officer subject to the Indian Army Act, 1911 (VIII of 1911) or of an officer or warrant officer of the Indian Air Force subject to the Indian Air Force Act, 1932 (XIV of 1932)" shall be inserted.