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TRINIDAD AND TOBAGO

Act No. 7 of 1962

[L.S.]

AN ACT to provide for the defence of Trinidad and Tobago by the establishment of a Trinidad and Tobago Defence Force and to provide for matters connected therewith and incidental thereto.

[Assented to 22nd August, 1962]

BE IT ENACTED by The Queen's Most Excellent Majesty, Enactment by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same, as follows:—

PART I

*Preliminary*

1. (1) This Act may be cited as the Defence Act, 1962. Short title  
(2) This Act has effect from the 1st day of June, 1962.

## Interpretation

## 2. In this Act,

- (a) "acting rank" means rank of any description (however called) such that under regulations a commanding officer has power to order the holder to revert from that rank; "acting warrant officer" and "acting non-commissioned officer", shall be construed accordingly;
- (b) "aircraft" means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon;
- (c) "aircraft material" includes—
- (i) parts of, and components of or accessories for, aircraft, whether for the time being in aircraft or not;
  - (ii) engines, armaments, ammunition and bombs, and other missiles of any description in, or for use in, aircraft;
  - (iii) any other gear, apparatus or instruments in, or for use in, aircraft;
  - (iv) any apparatus used in connection with the taking-off or landing of aircraft or for detecting the movement of aircraft; and
  - (v) any fuel used for the propulsion of aircraft and any material used as a lubricant for aircraft or aircraft material;
- (d) "appropriate superior authority" has the meaning assigned to it by subsection (1) of section 78 and subsection (2) of section 82;
- (e) "arrest" includes open arrest;
- (f) "before the enemy" in relation to a person, means that he is in action against the enemy or about to go into action against the enemy or is under attack or threat of imminent attack by the enemy;
- (g) "Board of Inquiry Rules" means rules with respect to the convening, constitution and procedure of boards of inquiry made by the Governor under section 133;

- (h) "civil court" means a court of ordinary criminal jurisdiction, but does not, except where otherwise expressly provided, include any such court outside the Commonwealth;
- (i) "civil offence" has the meaning assigned to it in subsection (2) of section 70;
- (j) "colour service" means service under this Act otherwise than service in the reserve;
- (k) "the Commander" means the officer appointed by the Governor under section 183 to have command, direction and general superintendence of the Trinidad and Tobago Defence Force;
- (l) "commanding officer" has the meaning assigned to it by subsection (1) of section 82;
- (m) "Commonwealth force" means any of the military forces of ~~Canada, the Commonwealth of Australia, New Zealand, India, Pakistan, Ceylon, Federation of Malaya, Ghana, Nigeria or the United Kingdom,~~ *of the countries to be listed in section (3) of the Constitution of Trinidad and Tobago* *as amended from time to time* 35/70
- (n) "competent military authority" means such officer as may be prescribed;
- (o) "corresponding civil offence" has the meaning assigned to it by subsection (2) of section 70;
- (p) "corresponding rank" in relation to any rank or rating in Her Majesty's naval, military or air forces, means such rank or rating in any other of those forces as may be declared by regulations to correspond therewith;
- (q) "court-martial" except where it is expressed to be under service law, means a court-martial under this Act;
- (r) "damage" includes destruction and references to damaging shall be construed accordingly;
- (s) "date of attestation" in relation to any person means the date on which he is attested in accordance with the provisions of regulations;

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- (t) "decoration" includes medal, medal ribbon, clasp and good conduct badge;
- (u) "desertion" shall be construed in accordance with subsection (2) of section 39;
- (v) "enemy" includes all persons engaged in armed operations against any of Her Majesty's forces and also includes all armed mutineers, armed rebels, armed rioters and pirates;
- (w) "Her Majesty's military forces" except where otherwise expressly provided, does not include any Commonwealth force;
- (x) "the Imperial Act" means the Army Act, 1955, of the United Kingdom as amended from time to time and any Imperial enactment substituted therefor;
- (y) "Imprisonment and Detention Rules" means rules regulating imprisonment and detention made by the Governor under section 132;
- (z) "military" when used adjectivally means connected to or belonging to land, sea or air forces;
- (aa) "Minister" means the member of Cabinet charged with responsibility for the subject of defence;
- (bb) "property" includes real property in the Territory, and property outside the Territory of the nature of real property;
- (cc) "provost officer" means a provost marshal or officer subject to service law appointed to exercise the functions conferred by or under service law on provost officers;
- (dd) "public property" means any property belonging to the Crown in right of its government of the United Kingdom or of the Territory, or to any department of Her Majesty's Government in the United Kingdom or to the Government of Trinidad and Tobago or to any department thereof, and includes any property held for the purposes of the Crown as aforesaid or of any such Government or department;

(c) "men" shall be construed as references to soldiers, sailors and airmen, as the case may require, who do not hold officer, warrant officer or non-commissioned officer rank.

(2) In this Act—

(a) "the Force" means the Trinidad and Tobago Defence Force established under section 5,

(b) references to "the Force" includes reference to any units formed under paragraph (c) of subsection (1) of section 5.

Provisions as to  
active service

4. (1) In this Act the expression "on active service", in relation to any unit, means that it is engaged in operations against an enemy, and in relation to a person means that he is serving in or with such a unit which is on active service.

(2) Where it appears to the Governor that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that a unit should be deemed to be on active service, he may declare that for such period, not exceeding three months, beginning with the coming into force of the declaration as may be specified therein that unit shall be deemed to be on active service.

(3) Where it appears to the Governor that it is necessary for the public service that the period specified in a declaration under subsection (2) should be prolonged or, if previously prolonged under this section, should be further prolonged, he may declare that the said period shall be prolonged by such time, not exceeding three months, as may be specified in the declaration under this subsection.

(4) If at any time while any unit is deemed to be on active service by virtue of the foregoing provisions of this section, it appears to the Governor that there is no necessity for the unit to continue to be treated as being on active service, he may declare that as from the coming into operation of the declaration the unit shall cease to be deemed to be on active service.

5. (1) There shall be established and maintained in the Territory a body of military forces styled "the Trinidad and Tobago Defence Force" consisting of—

Establishment  
and maintenance  
of Force

- (a) a unit of land forces;
- (b) a coast guard; and
- (c) such other units as the Governor may from time to time think fit to be formed, and styled by such designation as the Governor shall declare by notice published in the *Royal Gazette*.

(2) Every unit shall be charged with the defence of the Territory and with such other duties as may from time to time be defined by the Minister.

(3) The Governor may at any time order that any unit or part thereof shall be employed out of or beyond the Territory.

(4) The Minister may order that any officer or other rank shall proceed to any place outside the Territory for the purpose of undergoing instruction or training or for duty or employment.

## PART II OFFICERS

6. No person shall be appointed to a commission in the Force unless he has been recommended by a board set up for that purpose by the Governor.

Conditions of  
appointing officers

7. (1) The power of appointment to commissions in the Force is vested in Her Majesty, and exercised on Her Majesty's behalf by the Governor.

Commissioning of  
officers

(2) Every officer on appointment to a commission shall be issued with a commission in the form set out in the First Schedule which commission shall be signed by the Governor.

First Schedule

(3) The appointment of a person to a commission shall be notified in the *Royal Gazette*.

8. (1) The promotion of officers whether permanent or acting, shall be notified in the *Royal Gazette*.

Promotion, &c.,  
of officers to be  
Gazetted

(2) Any retirement or resignation of an officer shall be notified in the *Royal Gazette*.

9. A reserve of officers may be maintained consisting of those officers of the Force who have been permitted to retire from the active list.

Reserve of officers

## PART III

## ENLISTMENT AND TERMS OF SERVICE

Recruiting officers 10. A person authorised in that behalf by the Minister may enlist recruits in the Force in the prescribed manner.

Enlistment  
Form

11. (1) A recruiting officer shall give to a person offering to enlist in the Force a notice in the prescribed form and shall not enlist any person in the Force unless he is satisfied by that person that he has been given such a notice, understands it, and wishes to be enlisted.

(2) A recruiting officer shall not enlist a person under the age of eighteen years unless consent to the enlistment has been given in writing—

- (a) if the person offering to enlist is living with both or one of his parents, by the parents or parent;
- (b) if he is not living with both or one of his parents, by any person (whether a parent or not) whose whereabouts are known or can after reasonable enquiry be ascertained and who has parental rights and powers in respect of him, by that person;
- (c) if there is not such person as is mentioned in paragraph (b) or if after reasonable enquiry it cannot be ascertained whether there is any such person, by any person in whose care (whether in law or in fact) the person offering to enlist may be.

(3) Where the recruiting officer is satisfied by the production of a certified copy of an entry in the register of births or by any other evidence appearing to him to be sufficient, that a person offering to enlist has or has not attained the age of eighteen years, that person is deemed for the purposes of this Act to have attained, or as the case may be, not to have attained that age.

A document purporting to be a certificate signed by the recruiting officer, stating that he is satisfied as aforesaid, is sufficient evidence, until the contrary is proved, that he is so satisfied.

## TERMS AND CONDITIONS OF SERVICE

Terms of  
enlistment

12. (1) The term for which a person enlisting in the Force may be enlisted is the term beginning with the date of his attestation mentioned in this section.

(2) Where the person enlisting has attained the age of eighteen years the said term is

- (a) such term not exceeding six years as may be prescribed being a term of colour service; or
- (b) such term not exceeding twelve years as may be prescribed, being as to such part thereof as may be prescribed a term of colour service and as to the remainder a term of service in the reserve.

#### RE-ENGAGEMENT AND EXTENSION OF SERVICE

13. (1) Any other rank of good character who at any time has completed or is within two years before completing the term of his colour service may with the approval of the competent military authority re-engage for such period or periods of colour service and in the reserve as may be prescribed, but such further period or periods of colour service together with the original period of colour service, shall not, except as provided by subsection (2), exceed a total continuous period of twenty-two years' colour service from the date of the other rank's original attestation or the date upon which he attained the age of eighteen years, whichever is the later.

Re-engagement  
and continuance  
in service

(2) Any other rank who shall have completed a period of twenty-two years' colour service may, if he shall so desire and with the approval of the competent military authority, continue to serve from year to year in all respects as if his term of colour service was still unexpired except that he may claim discharge at the expiration of any period of three months after he has given notice to the officer under whose command he is serving of his wish to be discharged.

14. Any other rank whose term of colour service expires during a state of war, insurrection, hostilities or public emergency may be retained in the Force and his service prolonged for such further period as the competent military authority, with the approval of the Minister may, direct.

Prolongation of  
service

#### DISCHARGE AND TRANSFER TO THE RESERVE

15. (1) Save as herein provided, every soldier upon becoming entitled to be discharged shall be discharged with all convenient speed but until discharged shall remain subject to military law.

Discharge

(2) Except in pursuance of the sentence of a court martial under service law, an other rank shall not be discharged unless his discharge has been authorised by order of the competent military authority.

(3) Every other rank shall be given on his discharge a certificate containing such particulars as may be prescribed.

Transfer to the reserve

**16.** (1) Save as herein provided, every other rank upon falling to be transferred to the reserve shall be transferred to the reserve but until so transferred remains subject to military law.

(2) Notwithstanding anything contained in subsection (1), the competent military authority may, when an other rank falls to be transferred to the reserve, discharge him forthwith without giving any reason, and in any such case the provisions of section 15 apply.

Postponement of discharge or transfer pending proceedings for offences, &c.

**17.** (1) Notwithstanding anything in this Part, an other rank is not entitled to be discharged or transferred to the reserve at a time when he has become liable, as a person subject to military law under this Act, to be proceeded against for an offence against any of the provisions of service law; but if it is determined that the offence is not to be tried by court-martial, this subsection does not apply.

(2) Notwithstanding anything in this Part, an other rank who is serving a sentence of imprisonment or detention awarded by a court-martial under service law or by his commanding officer is not entitled to be discharged or transferred to the reserve during the currency of the sentence.

Restrictions on reduction in rank of warrant officers and non-commissioned officers

**18.** (1) A warrant officer or a non-commissioned officer shall not be reduced in rank except by sentence of a court-martial under service law or by order of the Governor, or the Commander, or an officer authorised by the Governor to act for the purpose of this subsection.

(2) An authorisation under subsection (1) may be given generally or subject to such limitations as may be specified by the Governor.

(3) For the purposes of this section reduction in rank does not include reversion from acting rank.

19. A warrant officer who is reduced to the ranks may thereupon claim to be discharged unless a state of war, insurrection, hostilities or public emergency exists.

Right of warrant officer to discharge on reduction to ranks

20. An other rank may be discharged by a competent military authority at any time during the currency of any term of engagement upon such grounds as may be prescribed.

Discharge upon prescribed grounds

21. (1) Subject to this section, an other rank is entitled to claim his discharge at any time after twelve weeks and within six months from the date of his first attestation, and if he makes such a claim, he shall, on payment of one hundred dollars, be discharged with all convenient speed but until discharged shall remain subject to military law under this Act.

Right of soldier to purchase discharge

(2) This section does not apply to an other rank who immediately prior to the date of his first attestation was a member of a Commonwealth Force.

(3) Section 15 does not apply to an other rank discharged under this section.

(4) Notwithstanding this section, an other rank is not entitled to claim his discharge at a time when or so long as other ranks are required to continue their colour service under the provisions of section 14.

#### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

22. In reckoning the service of any other rank for discharge or re-engagement or transfer to the reserve there shall be excluded therefrom

Rules for reckoning service

(a) all periods during which he has been absent from his duty from any of the following causes—

(i) imprisonment;

(ii) desertion;

(iii) absence without leave exceeding twenty-eight days; and

(b) any period ordered by a court-martial to be forfeited.

Validity of  
attestation and  
enlistment

**23.** (1) Where a person has made such declaration upon his attestation as may be prescribed and has thereafter received pay as an other rank,

- (a) the validity of his enlistment is not to be called in question on the grounds of any error or omission in his attestation paper;
- (b) after the expiration of a period of three months from the date on which he made the said declaration, he shall be deemed to have been validly enlisted notwithstanding any non-compliance with the requirements of this Act or any regulations made as to enlistment or attestation or any other ground whatsoever (not being an error or omission in his attestation paper) and he shall be deemed to be an other rank until his discharge.

(2) Where a person has received pay as an other rank without having previously made a declaration under subsection (1), then

- (a) he shall be deemed to be an other rank until discharged;
- (b) he may claim his discharge at any time and if he makes such claim, the claim shall be submitted as soon as may be to the competent military authority who shall cause him to be discharged with all convenient speed.

(3) Nothing in this section shall be construed as prejudicing the determination of any question as to the term for which a person was enlisted or as preventing the discharge of a person who has not claimed his discharge.

False answers in  
attestation paper

**24.** (1) If a person appearing before a recruiting officer for the purpose of being attested knowingly makes a false answer to any question contained in the attestation paper and put to him by or by the direction of the recruiting officer, he is liable on summary conviction to a fine of one hundred dollars or to imprisonment for three months.

(2) For the avoidance of doubt it is hereby declared that a person may be proceeded against under this section notwithstanding that he has since become subject to military law.

## PART IV

DISCIPLINE AND TRIAL AND PUNISHMENT OF  
MILITARY OFFENCES*Treachery, cowardice and offences arising out of  
Military Service*

25. (1) Every person subject to military law who, with Aiding the enemy  
intent to assist the enemy,

- (a) abandons or delivers up any place or post which it is his duty to defend, or induces any person to abandon or deliver up any place or post which it is that person's duty to defend; or
- (b) does any act calculated to imperil the success of operations of the Force, of any forces co-operating therewith or of any part of any of those forces; or
- (c) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner whatsoever not authorised by international usage; or
- (d) furnishes the enemy with arms or ammunition or with supplies of any description; or
- (e) harbours or protects an enemy not being a prisoner of war,

is, on conviction by court-martial, liable to suffer imprisonment or less punishment.

(2) Every person subject to military law who knowingly and without lawful excuse,

- (a) abandons or delivers up any place or post which it is his duty to defend, or induces any person to abandon or deliver up any place or post which it is that person's duty to defend; or
- (b) does any act calculated to imperil the success of operations of the Force, of any forces co-operating therewith or of any part of any of those forces; or

- (c) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner whatsoever not authorised by international usage; or
- (d) furnishes the enemy with arms or ammunition or with supplies of any description; or
- (e) harbours or protects an enemy not being a prisoner of war,

shall, on conviction by court-martial, be liable to suffer imprisonment or less punishment.

Communication  
with the enemy

**26.** (1) Every person subject to military law who, with intent to assist the enemy, communicates with or gives intelligence to the enemy is, on conviction by court-martial, liable to suffer death or less punishment.

(2) Every person subject to military law who without authority communicates with or gives intelligence to the enemy is, on conviction by court-martial, liable to imprisonment or less punishment.

(3) In this section the expression "intelligence" means information which is or purports to be information as to any matter such that information about it would or might be directly or indirectly useful to an enemy, and in particular (but without prejudice to the generality of the foregoing provisions of this subsection) as to any matter falling within the following paragraphs, being a matter such that information as to it would or might be useful as aforesaid, that is to say:—

- (a) the number, description, armament, equipment, disposition, movement or condition of the Force or of any forces co-operating therewith;
- (b) any operations or projected operations of any of such forces, ships or aircraft as aforesaid;
- (c) any code, cipher, call sign, password or countersign;
- (d) any measures for the defence or fortification of any place on behalf of the Government;
- (e) munitions of war.

Cowardly  
behaviour

**27.** (1) Every person subject to military law who when before the enemy,

- (a) leaves the post, position or other place where it is his duty to be; or

(b) throws away his arms, ammunition or tools, in such a manner as to show cowardice, or otherwise behaves in such a manner as to show cowardice, is guilty of an offence against this section.

(2) Every person subject to military law who when before the enemy induces any other person subject to service law and before the enemy to commit an offence under subsection (1) is guilty of an offence against this section.

(3) Every person guilty of an offence against this section is, on conviction by court-martial, liable to imprisonment or less punishment. Offences against morale

28. Every person subject to military law who—

(a) spreads (whether orally, in writing, by signal, or otherwise) reports relating to operations of the Force or of any forces co-operating therewith, or of any part of any of those forces, being reports calculated to create despondency or unnecessary alarm; or

(b) when before the enemy, uses words calculated to create despondency or unnecessary alarm. is, on conviction by court-martial, liable to imprisonment or less punishment.

29. (1) Every person subject to military law who, through disobedience to orders or wilful neglect of his duty, is captured by the enemy, is guilty of an offence against this section. Becoming a prisoner of war through disobedience or wilful neglect; and failure to rejoin forces

(2) Every person subject to military law who, having been captured by the enemy, fails to take, or prevents or discourages any other person subject to service law who has been captured by the enemy from taking, any reasonable steps to rejoin the force which are available to him or, as the case may be, to that other person is guilty of an offence against this section.

(3) Every person guilty of an offence against this section is, on conviction by court-martial, liable to imprisonment or less punishment.

30. (1) Every person subject to military law who, while on guard duty, Offences by or in relation to sentries, &c.

(a) sleeps at his post; or

(b) when not on duty at a post, is asleep at a time when he is not allowed to be asleep; or

(c) is drunk; or  
(d) leaves his post without having been regularly relieved or otherwise absents himself from any place where it is his duty to be,  
is guilty of an offence against this section.

(2) For the purposes of this section a person shall be treated as being drunk if owing to the influence of alcohol or any drugs whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty.

(3) Every person subject to military law who strikes or otherwise uses force against any person on guard duty, being a member of any unit of the Force or of any forces co-operating therewith, or by the threat of force compels any such person to let him or any other person pass, is guilty of an offence against this section.

(4) Every person guilty of an offence against this section is, on summary conviction by court-martial, liable to imprisonment or less punishment but if the offence is not committed on active service he is not liable to be imprisoned for more than two years.

(5) References in this section to a person on guard duty are references to a person who

(a) is posted or ordered to patrol or has adopted the position of sentry at a post or has undertaken the patrol; or

(b) is a member of a guard or other party mounted or ordered to patrol,  
for the purpose of protecting any person, premises, or place.

(6) This section applies to persons posted or ordered to patrol or who have adopted the position of sentries at a post or have undertaken the patrol, and to the members of a party mounted or ordered to patrol, for the purpose of preventing or controlling access to or egress from any premises or place, or of regulating traffic by road, by rail or on any inland navigation, as it applies to persons on guard duty.

31. (1) Every person subject to military law who is attached to any ship of the Force, and who, being in the presence or vicinity of the enemy or under orders to be prepared for action by or against the enemy, abandons his post improperly or sleeps upon his watch is liable on conviction by court-martial to imprisonment for any term or less punishment. Sleeping on watch  
or abandoning  
post

(2) Every person subject to military law who is attached to any ship of the Force, and who, not being in the presence or vicinity of the enemy or under such orders as aforesaid, abandons his post improperly or sleeps upon his watch is liable to imprisonment for a term of two years or less punishment.

32. Every person subject to military law under this Act who— Looting

(a) steals from, or with intent to steal searches, the person of anyone killed or wounded in the course of warlike operations; or

(b) steals any property which has been left exposed or unprotected in consequence of warlike operations; or

(c) takes otherwise than for the public service any vehicles, equipment or stores abandoned by the enemy,

is guilty of looting and liable, on conviction by court-martial, to imprisonment or less punishment.

#### *Mutiny and Insubordination*

33. (1) Every person subject to military law who Mutiny

(a) takes part in a mutiny involving the use of violence or the threat of the use of violence, or having as its object or one of its objects the refusal or avoidance of any duty or service against, or in connection with operations against the enemy, or the impending of the performance of any such duty or service; or

(b) incites any person subject to service law to take part in such a mutiny, whether actual or intended,

is on conviction by court-martial, liable to suffer death or less punishment.

(2) Every person subject to military law who, in a case not falling within subsection (1), takes part in a mutiny, or incites any person subject to service law to take part in a mutiny, whether actual or intended, is, on conviction by court-martial, liable to imprisonment or less punishment.

(3) In this Act the expression "mutiny" means a combination between two or more persons subject to service law, or between persons two at least of whom are subject to service law—

- (a) to overthrow or resist lawful authority in the Force or any forces operating therewith or in any part of any of the said forces; or
- (b) to disobey such authority in such circumstances as to make the disobedience subversive of discipline, or with the object of avoiding any duty or service against, or in connection with operations against, the enemy; or
- (c) to impede the performance of any duty or service in the Force or in any forces co-operating therewith or in any part of any of the said forces; or
- (d) steals any property which has been left exposed or unprotected in consequence of any state of emergency declared by the Governor.

Failure to  
suppress mutiny

**34.** Every person subject to military law who, knowing that a mutiny is taking place or is intended,

- (a) fails to use his utmost endeavours to suppress or prevent it; or
  - (b) fails to report without delay that the mutiny is taking place or is intended,
- is, on conviction by court-martial,

- (i) if his offence was committed with intent to assist the enemy, liable to suffer death or other punishment; and
- (ii) in any other case, liable to imprisonment or less punishment.

Insubordinate  
behaviour

- 35.** (1) Every person subject to military law who
- (a) strikes, or otherwise uses violence to, or offers violence to, his superior officer; or
  - (b) uses threatening or insubordinate language to his superior officer,

is, on conviction by court-martial, liable to imprisonment or less punishment, but such person is not liable to be imprisoned for more than two years if the offence was not committed on active service, and did not involve the striking or other use of violence, or offering of violence, to a superior officer exercising authority as such.

(2) The expression "superior officer", in relation to any person, means an officer, warrant officer or non-commissioned officer subject to service law of superior rank, and includes such an officer, warrant officer or non-commissioned officer of equal rank but greater seniority.

**36.** (1) Every person subject to military law who, in such manner as to show a wilful defiance of authority, disobeys any lawful command given or sent to him personally is, on conviction by court-martial, liable to imprisonment or less punishment. Disobedience to particular orders

(2) Every person subject to military law who, whether wilfully or through neglect disobeys any lawful command is, on conviction by court-martial, liable to imprisonment or less punishment; but if the offence was not committed on active service he is not liable to be imprisoned for more than two years.

**37.** Every person subject to military law who Obstruction of provost officers

(a) obstructs; or

(b) when called on, refuses to assist

any person known to him to be a provost officer, or to be a person (whether subject to military law under this Act or not) lawfully exercising authority under or on behalf of a provost officer, is, on conviction by court-martial, liable to imprisonment for two years or less punishment.

**38.** (1) Every person subject to military law who contravenes or fails to comply with any provision of orders to which this section applies, being a provision known to him, or which he might reasonably be expected to know, is, on conviction by court-martial, liable to imprisonment for two years or less punishment. Disobedience to standing orders

(2) This section applies to standing orders or other routine orders of a continuing nature made for any formation or unit or body of troops, or for any command or other area, garrison or place, or for any ship, train or aircraft.

## DESERTION, ABSENCE WITHOUT LEAVE, ETC.

## Desertion

39. (1) Every person subject to military law who
- (a) deserts; or
  - (b) persuades or procures any person subject to service law to desert,
- is, on conviction by court-martial, liable to imprisonment or less punishment; but a person is not liable to be imprisoned for more than two years unless
- (i) in the case of an offence against paragraph (a) of this subsection, he was on active service or under orders for active service at the time when it was committed; or
  - (ii) in the case of an offence against paragraph (b) of this section, the person in relation to whom it was committed was on active service or under orders for active service at that time.
- (2) A person deserts who
- (a) leaves the Force, or, when it is his duty to do so, fails to join or rejoin the Force, with (in either case) the intention, subsisting at the time of the leaving or failure or formed thereafter, of remaining permanently absent from his duty; or
  - (b) being an officer, enlists in or enters any of Her Majesty's forces without having resigned his commission, or being an other rank enlists in or enters any Commonwealth Force without having been discharged from his previous enlistment,

and references in this Act to desertion shall be construed accordingly.

(3) Subject to subsection (4) the court-martial by whom an other rank is convicted of desertion may, in addition to or in lieu of any punishment provided for by subsection (1), direct that the whole or any part of his service previous to the period in respect of which he is convicted of having been a deserter shall be forfeited.

(4) Subsection (3) does not apply to reservists called out on permanent service.

40. Every person subject to military law who Absence without leave  
 (a) absents himself without leave; or  
 (b) persuades or procures any person subject to service law to absent himself without leave,  
 is liable, on conviction by court-martial, to imprisonment for two years or less punishment.

41. Every person subject to military law who Assisting and concealing desertion and absence without leave  
 (a) knowingly assists any person subject to service law to desert or absent himself without leave; or  
 (b) knowing that any person subject to service law has deserted or absented himself without leave, or is attempting to desert or absent himself without leave, fails to report that fact without delay, or fails to take any steps in his power to cause that person to be apprehended,  
 is liable, on conviction by court-martial, to imprisonment for a term of two years or less punishment.

42. Every person subject to military law who without reasonable excuse fails to attend for any parade or other military duty of any description or leaves any such parade or duty before he is permitted to do so is liable, on conviction by court-martial, to imprisonment for two years or less punishment. Failure to perform military duties

#### MALINGERING AND DRUNKENNESS

43. (1) Every person subject to military law who Malingering  
 (a) falsely pretends to be suffering from sickness or disability; or  
 (b) injures himself with intent thereby to render himself unfit for service, or causes himself to be injured by any person with that intent; or  
 (c) injures another person subject to service law, at the instance of that person, with intent thereby to render that person unfit for service; or  
 (d) with intent to render or keep himself unfit for service, does or fails to do anything (whether at the time of the act or omission he is in hospital or not) whereby he produces, or prolongs, or aggravates, any sickness or disability,  
 is guilty of malingering and is liable, on conviction by court-martial, to imprisonment for two years or less punishment.

(2) In this section the expression "unfit" includes temporarily unfit.

Drunkenness

**44.** (1) Every person subject to military law who is guilty of drunkenness, whether on duty or not, is liable, on conviction by court-martial, to imprisonment for two years or less punishment; but where the offence is committed by an other rank neither on active service nor on duty the sentence imposed shall not exceed detention for a period of six months.

(2) For the purpose of this section a person is guilty of drunkenness if owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform, or behaves in a disorderly manner or in any manner likely to bring discredit on the Force.

## OFFENCES RELATING TO PROPERTY

Offences in relation to public and service property

**45.** Every person subject to military law who

(a) steals or fraudulently misapplies any public or service property, or is concerned in or connives at the stealing or fraudulent misapplication of any public or service property; or

(b) receives any public or service property knowing or having reason to believe it to have been stolen or to have been fraudulently misapplied; or

(c) wilfully damages, or is concerned in the wilful damage of, any public or service property; or

(d) by wilful neglect causes damage by fire to any public or service property,

is liable, on conviction by court-martial, to imprisonment or less punishment.

Offences in relation to property of members of forces

**46.** Every person subject to military law who

(a) steals or fraudulently misapplies any property belonging to a person subject to service law, or is concerned in or connives at the stealing or fraudulent misapplication of any such property; or

(b) receives any such property knowing or having reason to believe the same to have been stolen or to have been fraudulently misapplied; or

(c) wilfully damages, or is concerned in the wilful damage of, any property belonging to a person subject to service law,

is liable, on conviction by court-martial, to imprisonment for two years or less punishment.

47. (1) Every person subject to military law who Miscellaneous offences relating to property
- (a) loses any public or service property of which he has the charge or which has been entrusted to his care or which forms part of property of which he has the charge or which has been entrusted to his care;
  - (b) by negligence damages any public or service property of which he has the charge or which has been entrusted to his care or which forms part of property of which he has charge or which has been entrusted to his care; or
  - (c) by negligence causes damage by fire to any public or service property; or
  - (d) fails to take proper care of any animal or bird used in the public service which is in his charge; or
  - (e) makes away (whether by pawning, selling, destruction or in any other way) with any military, naval or airforce decoration granted to him or any clothing, arms, ammunition or other equipment issued to him for his use for military purposes,

is liable, on conviction by court-martial, to imprisonment for two years or less punishment.

(2) It is a defence for any person charged under paragraph (a) of subsection (1) with losing any property that he took reasonable steps for the care and preservation thereof.

#### OFFENCES RELATING TO BILLETING AND REQUISITIONING OF VEHICLES

48. Every person subject to military law who Billeting offences
- (a) knowing that no billeting requisition is in force under Part VII authorising him to demand any billets or that he is otherwise not authorised to demand them, obtains those billets or orders or procures another person to obtain them;
  - (b) takes or agrees to take, or demands, from a person on whom he or any other person or any vehicle is or is to be billeted in pursuance of a billeting requisition under Part VII any money or thing as consideration for not requiring, or ceasing to require, accommodation for himself or the said other person or standing room for the vehicle; or

- (c) commits any offence against the person or property of the occupier of premises in which he is billeted in pursuance of a billeting requisition under Part VII or of any other person being in those premises, or wilfully or by wilful neglect damages those premises or any such property as aforesaid,

is liable, on conviction by court-martial, to imprisonment for two years or less punishment.

Offences in relation to requisitioning of vehicles

49. (1) Every person subject to military law who
- (a) knowing that no requisitioning order is in force under Part VII authorising him to give directions for the provision of any vehicle, or that he is otherwise not authorised to give such directions, gives directions for the provision of the vehicle or orders or procures another person to give such directions, or
- (b) in purported exercise of powers conferred by a requisitioning order under Part VII takes, or orders or procures any other person to take, possession of a vehicle knowing that no requisitioning order is in force under the said Part VII under which the taking possession of the vehicle could be authorised, or that the taking possession thereof is otherwise not authorised under such an order, or
- (c) takes or agrees to take, or demands, from any person any money or thing as consideration for directions, or any particular directions, for the provision of a vehicle not being given, or possession of a vehicle not being taken or not being retained, under a requisitioning order under Part VII,

is liable, on conviction by court-martial, to imprisonment for two years or less punishment.

(2) Subsection (1) applies in relation to horses, mules, donkeys and oxen, food, forage and stores (within the meaning of Part VII) as it applies in relation to vehicles.

#### FLYING, ETC., OFFENCES

Dangerous flying, loss or hazarding of ships

50. Every person subject to military law who, either wilfully or by negligence,

- (a) causes or allows to be lost, stranded or hazarded any ships belonging to the Force;

(b) uses any aircraft or aircraft material in a manner which causes or is likely to cause loss of life or bodily injury to any person, is liable, if he acts wilfully or with wilful neglect, to imprisonment for any term or less punishment, and in any other case to imprisonment for two years or less punishment.

51. Every person subject to military law who signs any certificate in relation to an aircraft or to aircraft material without ensuring the accuracy of the certificate is liable, on conviction by court-martial, to imprisonment for two years or to less punishment. Inaccurate certification of aircraft, &c.

52. Every person subject to military law who, being the pilot of an aircraft belonging to the Force, flies it at a height less than the minimum height authorised by regulations in the circumstances is liable, on conviction by court-martial, to imprisonment for two years or to less punishment. Low flying.

53. Every person subject to military law who, being the pilot of an aircraft of the Force, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person is liable, on conviction by court-martial, to imprisonment for two years or to less punishment. Annoyance by flying

#### OFFENCES RELATING TO, AND BY, PERSONS IN CUSTODY

54. (1) Every person subject to military law who, when another person subject thereto is under arrest, Irregular arrest and confinement

(a) unnecessarily delays the taking of such steps as it is his duty to take for investigating the allegations against that other person or for having the allegations against that other person investigated by his commanding officer or an appropriate superior authority or, as the case may be, tried by court-martial; or

(b) fails to release, or effect the release of, that other person when it is his duty to do so, is guilty of an offence against this section.

(2) Every person subject to military law who, having committed a person (in this subsection and subsection (3) referred to as "the prisoner") to the custody of any provost officer or other officer, or any warrant officer or non-commissioned officer, fails without reasonable cause to deliver,

- (a) at the time of the committal; or
- (b) if it is not practicable so to do at the time of the committal, then within twenty-four hours thereafter,

to the person to whose custody the prisoner was committed a report in writing signed by himself of the offence which the prisoner is alleged to have committed, is guilty of an offence against this section.

(3) Where the prisoner is committed to the charge of a person subject to military law under this Act who is in command of a guard, then, if without reasonable cause that person does not as soon as he is relieved from his guard and any further duty, or if he is not sooner relieved, within twenty-four hours after the committal, give to the officer to which it is his duty to report,

- (a) a written statement containing so far as known to him, the prisoner's name and alleged offence and the name and rank or other description of the officer or other person by whom the prisoner is alleged to have committed the offence; and
- (b) if he has received it, the report required by subsection (2),

he is guilty of an offence against this section.

(4) Every person found guilty of an offence against this section is liable on conviction by a court-martial to imprisonment for two years or to less punishment.

Permitting escape,  
and unlawful  
release of prisoners

**55.** (1) Every person subject to military law who wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard, is liable, on conviction by court-martial to imprisonment or to less punishment.

- (2) Every person subject to military law who
  - (a) without proper authority releases any person who is committed to his charge; or
  - (b) without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to guard,

is liable, on conviction by court-martial, to imprisonment for two years or to less punishment.

Resistance to  
arrest

**56.** (1) Every person subject to military law who, being concerned in any quarrel or disorder, refuses to obey any officer who orders him into arrest, or strikes or

otherwise uses violence to, or offers violence to any such officer, is guilty of an offence against this section whether or not the officer is his superior officer.

(2) Every person subject to military law who strikes or otherwise uses violence to, or offers violence to any person, whether subject to this Act or not, whose duty it is to apprehend him or in whose custody he is, is guilty of an offence against this section.

(3) Every person guilty of an offence against this section is liable, on conviction by court-martial, to imprisonment for two years or to less punishment.

57. Every person subject to military law who escapes from arrest, prison or other lawful custody (whether military or not) is liable, on conviction by court-martial, to imprisonment for two years or to less punishment. Escape from confinement

#### OFFENCES IN RELATION TO COURTS-MARTIAL AND CIVIL AUTHORITIES

58. (1) Every person subject to military law who— Offences in relation to contempt of courts-martial
- (a) being duly summoned or ordered to attend as a witness before a court-martial, makes default in attending; or
  - (b) refuses to take an oath or make a solemn affirmation lawfully required by a court-martial to be taken or made;
  - (c) refuses to produce any document in his custody or under his control lawfully required by a court-martial to be produced by him;
  - (d) refuses when a witness to answer any question to which a court-martial may lawfully require an answer; or
  - (e) wilfully insults any person, being a member of a court-martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as aforesaid while that person is going to or returning from the proceedings of the court; or
  - (f) wilfully interrupts the proceedings of a court-martial or otherwise misbehaves before the court,

is liable, on conviction by a court-martial, other than the court in relation to which the offence was committed, to imprisonment for two years or less punishment; and where an offence against paragraph (e) or (f) is committed at or in relation to any court-martial, that court-martial, may under the hand of the president, issue an order that the offender undergo, for a period not exceeding twenty-one days, a term of imprisonment or detention.

(2) Notwithstanding anything in subsection (1) of this section, where an offence against paragraph (e) or paragraph (f) of that subsection is committed in relation to any court-martial that court, if of opinion that it is expedient that the offender should be dealt with summarily by the court instead of being brought to trial before another court-martial may by order under the hand of the president order the offender to be imprisoned for a period not exceeding twenty-one days, or, in the case of an other rank, either to be imprisoned for such a period or to undergo detention for such a period.

(3) References in paragraphs (a) to (f) of subsection (1) to a court-martial include references to a court-martial held in pursuance of service law.

False evidence

**59.** (1) Every person subject to military law who, having been lawfully sworn as a witness or as an interpreter in proceedings before a court-martial under service law or before any board or person having power under service law to administer oaths, makes a statement material in those proceedings which he knows to be false or does not believe to be true is liable, on conviction by court-martial, to imprisonment for two years or less punishment.

(2) A person is not liable to be convicted of an offence against this section solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

Obstruction of  
police officer  
arresting officer  
or soldier

**60.** Every person subject to military law who at any place in the Commonwealth prevents or obstructs

(a) the execution by a police officer of a warrant for the arrest of a person subject to service law who has committed or is suspected of having committed an offence punishable on conviction by a civil court; or

(b) the arrest of a person subject to service law by a police officer acting in the exercise of his powers of arrest without warrant, is liable, on conviction by court-martial, to imprisonment for two years or to less punishment.

#### MISCELLANEOUS OFFENCES

61. (1) Every person subject to military law who without authority discloses, whether orally, in writing, by signal or by any other means whatsoever, any information which is or purports to be information useful to an enemy is liable, on conviction by court-martial, to imprisonment for two years or to less punishment. Injurious disclosures

(2) In this section the expression "information useful to an enemy" means information as to any matter which is capable of being directly or indirectly useful to an enemy, and in particular information as to any matter falling within the following paragraphs :

- (a) the number, description, armament equipment, disposition, movement or condition of any of the Force or of any forces co-operating therewith, or any of the ships or aircraft of the force or of the ships or aircraft of any such co-operating force; or
- (b) any operations or projected operations of any of such forces, ships or aircraft as aforesaid; or
- (c) any code, cipher, call sign, password or counter-sign; or
- (d) any measures for the defence or fortification of any place on behalf of the Government; or
- (e) the number, description or location of any prisoners of war; or
- (f) munitions of war.

62. Every person subject to military law who knowingly makes a false answer to any question set forth in any document required to be completed in relation to his enlistment and who subsequently becomes subject to military law is liable, on conviction by court-martial, to imprisonment for three months or to less punishment. Making of false statements on enlistment

Making of false documents

**63.** Every person subject to military law who

- (a) makes, signs or makes an entry in any service report, return, pay list or certificate or other service document, being a document or entry which is to his knowledge false in a material particular.
- (b) alters any service report, return, pay list or certificate or other service document, or alters any entry in such a document, so that the document or entry is to his knowledge false in a material particular, or suppresses, defaces or makes away with any such document or entry which it is his duty to preserve or produce; or
- (c) with intent to defraud, fails to make an entry in any such document; or
- (d) aids, abets, commands, counsels, procures or connives at the commission by another person subject to service law of an offence against this section or the corresponding section of the appropriate service law, as the case may be (whether or not he knows the nature of the document in relation to which that offence will be committed),

is liable, on conviction by court-martial, to imprisonment for two years or to less punishment.

Scandalous conduct of officer

**64.** Every officer subject to military law who behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, shall, on conviction by a court-martial, be cashiered.

Ill-treatment of officers or men of inferior rank

**65.** Where

- (a) an officer subject to military law strikes or otherwise ill-treats an officer subject to service law of inferior rank or less seniority or an other rank subject to service law; or
- (b) a warrant officer or non-commissioned officer subject to military law strikes or otherwise ill-treats a person subject to service law, being of inferior rank or less seniority,

he is liable, on conviction by court-martial, to imprisonment for two years or to less punishment.

66. Every person subject to military law who is guilty of disgraceful conduct of a cruel, indecent or unnatural kind is liable, on conviction by court-martial to imprisonment for two years or to less punishment. Disgraceful conduct

67. Every person subject to military law who— False accusation

(a) makes an accusation against an officer or an other rank subject to service law, which he knows to be false or does not believe to be true; or

(b) in making a complaint where he thinks himself wronged, makes a statement affecting the character of an officer or other rank subject to service law, which he knows to be false or does not believe to be true or wilfully suppresses any material facts,

is liable, on conviction by court-martial, to imprisonment for two years or to less punishment.

68. Every person subject to military law who attempts to commit an offence against sections 28 to 67 (inclusive) is liable, on conviction by court-martial, to the like punishment for that offence, but where the offence is one punishable by death, he is not liable to any greater punishment than imprisonment. Attempts to commit military offences

69. Every person subject to military law who is found guilty of any conduct or neglect to the prejudice of good order and military discipline is liable, on conviction by court-martial, to imprisonment for two years or to less punishment. Conduct to prejudice of military discipline

#### CIVIL OFFENCES

70. (1) Subject to this section, every person subject to military law who commits a civil offence is guilty of an offence against this section. Civil offences

(2) In this Act the expression "civil offence" means any act or omission punishable by the law of the Territory or which, if committed in the Territory, would be punishable by such law and in this Act the expression "corresponding civil offence" means the civil offence the commission of which constitutes an offence against this section.

(3) A person convicted by court-martial of an offence against this section is

(a) if the corresponding civil offence is treason or murder, liable to suffer death; and

(b) in any other case, liable to suffer any punishment or punishments which a civil court could award for the corresponding civil offence, being a punishment or punishments herein provided for or such punishment, less than the maximum punishment which a civil court could so award, as is so provided; but where a civil court could not so award imprisonment, a person so convicted is liable to suffer such punishment, less than cashiering in the case of an officer, or discharge with disgrace in the case of an other rank, as is so provided.

(4) A person shall not be charged with an offence against this section if the corresponding civil offence is treason, murder, manslaughter, treason-felony or rape.

(5) Where the corresponding civil offence is murder or manslaughter, an offence against this section is deemed, for the purposes of subsection (3), to have been committed at the place of the commission of the act or occurrence of the neglect which caused the death, irrespective of the place of the death.

#### PUNISHMENTS

Punishment of  
officers

**71.** (1) The punishments which may be imposed on an officer by sentence of a court-martial are, subject to the limitations herein provided on the powers of certain courts-martial, those set out in the following scale :

- (a) death;
- (b) imprisonment;
- (c) cashiering;
- (d) dismissal from Her Majesty's service;
- (e) fine of a sum not exceeding the equivalent of ninety days pay;
- (f) forfeiture of seniority;
- (g) severe reprimand or reprimand;
- (h) where the offence has occasioned any expense, loss or damage, stoppages;

and in relation to an officer references in this Act to punishments provided by this Act are references to these punishments.

(2) Where a punishment is specified in this Part as a penalty for an offence committed by an officer and it is further provided in the alternative that on conviction the offender is liable to less punishment, the expression "less

punishment" means any one or more of the punishments lower in the scale of punishments than the specified punishment.

(3) Save as expressly provided herein, not more than one punishment shall be imposed by a court-martial for one offence.

(4) Stoppages may be imposed by a court-martial either in addition to or without any other punishment.

(5) A severe reprimand or reprimand may be imposed by a court-martial in addition to a fine imposed under paragraph (e) of subsection (1).

(6) Where the punishment awarded is a severe reprimand, the court-martial may in addition award a forfeiture of seniority.

(7) Where an officer is sentenced by a court-martial to imprisonment, he shall also be sentenced to be cashiered; but if the court-martial fails to sentence him to be cashiered, the sentence of imprisonment is not invalid but shall be deemed to include a sentence of cashiering.

**72.** (1) The punishments which may be imposed on an other rank by sentence of court-martial are, subject to the limitations herein provided on the powers of certain courts-martial, those set out in the following scale :

Punishment of  
other ranks

- (a) death;
- (b) imprisonment;
- (c) discharge with ignominy from the force;
- (d) in the case of a warrant officer, dismissal from the Force;
- (e) detention for a term not exceeding two years;
- (f) in the case of a warrant officer or non-commissioned officer, reduction to the ranks or any less reduction in rank;
- (g) fine of a sum not exceeding the equivalent of ninety days pay;
- (h) where the offence is desertion, forfeiture of service;
- (i) in the case of a warrant officer or non-commissioned officer, severe reprimand or reprimand;

(j) where the offence has occasioned any expense, loss or damage, stoppages; and in relation to an other rank references in this Act to punishments provided by this Act are references to these punishments.

(2) Where a punishment is specified by this Part as a penalty for an offence committed by an other rank, and it is further provided in the alternative that on conviction the offender is liable to less punishment, the expression "less punishment" means any one or more of the punishments lower in the scale of punishments than the specified punishment; but detention shall not be deemed to be less punishment than imprisonment if the term of detention is longer than the term of imprisonment.

(3) Save as expressly provided herein, not more than one punishment shall be imposed on an other rank by a court-martial for one offence.

(4) An other rank sentenced by a court-martial to imprisonment for a term exceeding forty-two days shall in addition thereto be sentenced to be discharged from the force; and if the court-martial fails to sentence him to be discharged, the sentence is not invalid but shall be deemed to include a sentence of discharge.

(5) Where a warrant officer or non-commissioned officer is sentenced by a court-martial to imprisonment or detention, he shall also be sentenced to be reduced to the ranks; but if the court-martial fails to sentence him to be so reduced, the sentence is not invalid but shall be deemed to include a sentence of reduction to the ranks.

(6) In the case of a warrant officer or non-commissioned officer a severe reprimand or reprimand may be imposed by a court-martial in addition to a fine imposed under paragraph (g) of subsection (1).

(7) Stoppages may be imposed by a court-martial either in addition to or without any other punishment.

(8) Where an offender has been sentenced by a court-martial to detention, then if he is subsequently sentenced by a court-martial to imprisonment any part of the sentence of the detention which has not yet been served shall thereupon be remitted.

(9) Without prejudice to the validity of any award, an offender shall not be kept continuously in detention for more than two years.

73. (1) In relation to an offence committed by an other rank on active service, the scale set out in subsection (1) of section 72 of this Act has effect as if after paragraph (e) thereof there was inserted the following paragraph

“(ee) field punishment for a period not exceeding ninety days;”,

and subsection (5) of section 72 applies to field punishment as it applies to imprisonment or detention.

(2) Field punishment consists of such duties or drills, in addition to those which the offender may be required to perform if he were not undergoing punishment, and such loss of privileges as may be provided by and under rules made under this Part, and may include confinement in such place and manner as may be so provided and such personal restraint as may be necessary to prevent the escape of the offender and as may be so provided.

74. Where in this Act it is provided that a person subject to military law is liable on conviction by court-martial to imprisonment and no term or maximum term of imprisonment is specified then such person is liable to imprisonment for any term.

#### ARREST

75. (1) A person subject to military law found committing an offence against this Act, or alleged to have committed or reasonably suspected of having committed any such offence, may be arrested in accordance with the provisions of this section.

(2) An officer may be arrested by an officer subject to service law of superior rank, or, if engaged in a quarrel or disorder, by such an officer of any rank.

(3) An other rank may be arrested by an officer, warrant officer or non-commissioned officer subject to service law, but a person shall not be arrested by virtue of this subsection except by a person of superior rank.

(4) A provost officer, or an officer, warrant officer or non-commissioned officer subject to service law lawfully exercising authority under a provost officer or on his behalf, may arrest an officer or other rank; but an officer shall not be arrested by virtue of this subsection except on the order of another officer.

(5) The power of arrest given to a person by this section may be exercised either personally or by ordering into arrest the person to be arrested or by giving orders for that person's arrest.

Provisions for  
avoiding delay  
after arrest

**76.** (1) The allegations against a person subject to military law who is under arrest shall be duly investigated without unnecessary delay, and either proceedings shall be taken for punishing his offence as soon as may be or he shall be released from arrest.

(2) Wherever a person subject to military law having been taken into military custody, remains under arrest for a longer period than eight days without a court-martial for his trial being convened, a special report explaining the necessity for further delay shall be made by his commanding officer to the prescribed authority in the prescribed manner, and a similar report shall be made to the like authority and in the like manner every eight days until a court-martial is assembled or the offence is dealt with summarily or he is released from arrest; but in the case of a person on active service compliance with this subsection shall be excused in so far as it is not reasonably practicable having regard to the exigencies of military operations.

(3) For the purposes of subsection (1) of section 54 the question whether there has been unnecessary delay in the taking of any steps for the investigation of allegations against a person under arrest shall be determined without regard to the provisions of subsection (2) of this section.

#### INVESTIGATIONS OF, AND SUMMARY DEALING WITH, CHARGES

Investigation of  
charges by  
commanding  
officer

**77.** Before an allegation against a person subject to military law (herein referred to as "the accused") that he has committed an offence against any provisions of this Part is further proceeded with, the allegations shall be reported, in the form of a charge, to the accused's commanding officer and the commanding officer shall investigate the charge in the prescribed manner.

Charges to be  
dealt with  
summarily or by  
court-martial

**78.** (1) After investigation, a charge against an officer below the rank of lieutenant-colonel or against a warrant officer or corresponding rank may, if an authority has

power under this Part to deal with it summarily, be so dealt with by that authority (herein referred to as "the appropriate superior authority").

(2) After investigation, a charge against a non-commissioned officer or other rank may be dealt with summarily by his commanding officer, subject to and in accordance with this Part.

(3) Any charge not dealt with summarily shall after investigation be remanded for trial by court-martial.

(4) Notwithstanding anything contained in this section, where

(a) the commanding officer has investigated a charge against an officer or warrant officer; or

(b) the commanding officer has investigated a charge against a non-commissioned officer or other rank, which is not one which can be dealt with summarily,

the commanding officer may dismiss the charge if he is of opinion that it ought not to be further proceeded with.

(5) References in this Act to dealing summarily with a charge are references to the taking by the appropriate superior authority or the commanding officer of the accused, as the case may require, of the following action, that is to say, determining whether the accused is guilty, dismissing the charge or recording a finding of guilty accordingly, and imposing punishment.

79. (1) When the commanding officer has investigated a charge against a non-commissioned officer or other rank, he shall, where the charge is

(a) not one which can be dealt with summarily and the commanding officer has not dismissed it; or

(b) one which can be dealt with summarily but the commanding officer is of opinion that it should not be so dealt with,

he shall take the prescribed steps for the charge to be tried by court-martial; but in any other case he shall proceed to deal with the charge summarily, and may, if he records a finding of guilty impose one or more of the following punishments, that is to say—

(aa) where the accused is a non-commissioned officer,

Further  
proceedings on  
charges against  
N.C.O's and  
other ranks

- (i) severe reprimand or reprimand;
  - (ii) where the offence has occasioned any expense, loss or damage, stoppages;
  - (iii) admonition;
  - (iv) a fine of a sum not exceeding the equivalent of twenty-eight days pay.
- (bb) where the accused is a man,
- (i) detention for a period of forty-two days or, if the accused is on active service, field punishment for a period of forty-two days;
  - (ii) a fine of a sum equivalent to thirty days pay;
  - (iii) where the offence has occasioned any expense, loss or damage, stoppages;
  - (iv) confinement to barracks for a period beginning with the day of the sentence and not exceeding twenty-eight days;
  - (v) stoppage of leave;
  - (vi) extra guards or piquets;
  - (vii) admonition.

(2) The commanding officer may, where he finds an acting warrant officer, an acting non-commissioned officer or a corresponding rank guilty and imposes only the punishment of stoppages, order such an accused to revert to his permanent rank, or to assume an acting rank lower than that held by him but higher than his permanent rank.

(3) Notwithstanding anything contained in subsection (1), the commanding officer shall, where he

- (a) has determined that the accused is guilty, and
- (b) considers that the proper punishment for the charge, if taken summarily,
  - (i) is a punishment other than—
    - severe reprimand,
    - reprimand,
    - admonition,
    - confinement to barracks,
    - extra guards or piquets; or
  - (ii) involves a forfeiture of pay;

before recording a finding, give the accused an opportunity of electing to be tried by court-martial.

(4) Where the accused elects to be tried by court-martial under subsection (3), the commanding officer shall not record a finding but shall take the prescribed steps for the charge to be tried by a court-martial.

(5) Subject to subsection (6), where a charge is one which can be dealt with summarily, but the commanding officer has referred the charge for trial by court-martial under subsection (3), the higher authority to whom the charge is referred may refer the charge back to the commanding officer to be dealt with summarily; and on any such reference, subsection (1), (2), and (3) apply as if the commanding officer had originally been of opinion that the charge should have been dealt with summarily.

(6) A higher authority shall not refer back a charge to a commanding officer where the accused has elected to be tried by court-martial and has not withdrawn his election.

80. (1) After investigating a charge against an officer or warrant officer, the commanding officer shall, unless

- (a) he has dismissed the charge; or
- (b) the case is one where he has power, and proposes to direct trial by court-martial,

submit it in the prescribed manner to a higher authority.

(2) Where a charge is submitted to a higher authority under subsection (1), that authority may,

- (a) if the charge is one that can be taken summarily, refer it to the appropriate superior authority for summary trial; or
- (b) if the charge is one that cannot be taken summarily, take the necessary steps for its being tried by court-martial.

(3) Subject to subsection (4), where the charge is referred to the appropriate superior authority, that authority shall—

- (a) investigate the charge in the prescribed manner;
- (b) determine whether the accused is guilty of the charge; and
- (c) either dismiss the charge or record a finding of guilty.

Further proceedings on charges against officers and warrant officers

(4) The appropriate superior authority shall, if at any time during the investigation of the charge it is of the opinion that the charge may more properly be dealt with by a court-martial, take the prescribed steps to have the charge so tried.

(5) The appropriate superior authority may, when it records a finding of guilty, impose one or more of the following punishments:

- (a) a fine of a sum not exceeding the equivalent of twenty days pay;
- (b) forfeiture of seniority not exceeding twelve months;
- (c) severe reprimand or reprimand;
- (d) where the offence has occasioned any expense, loss or damage, stoppages.

(6) Notwithstanding anything contained in subsections (3) and (4) the appropriate superior authority shall, where it—

- (a) has determined that the accused is guilty; and
- (b) considers that the proper punishment for the charge—

(i) is a fine under paragraph (a) of subsection (5); or

(ii) is stoppages under paragraph (b) of subsection (5);

(iii) involves a forfeiture of pay;

before recording a finding, give the accused an opportunity of electing to be tried by court-martial.

(7) Where the accused elects to be tried by court-martial under subsection (6), the appropriate superior authority shall take the prescribed steps for the charge to be tried by a court-martial.

Dismissal of  
charges referred  
to higher  
authority

**81.** (1) Notwithstanding anything in sections 79 and 80 of this Act, where a charge—

(a) has been referred to higher authority with a view to its being tried by court-martial, or

(b) has been submitted to higher authority for determination how it is to be proceeded with, that authority may, subject to this section, refer the charge back to the commanding officer of the accused with a direction that it shall be dismissed, and in every such case the commanding officer shall dismiss the charge.

(2) The reference back of a charge under subsection (1) is without prejudice to the preferring of another charge where the higher authority has so directed or the commanding officer thinks fit.

**82.** (1) In this Act the expression "commanding officer", in relation to a person charged with an offence, means the officer for the time being commanding the unit to which the person belongs or is attached.

Officers who are to act as commanding officers and appropriate superior authorities

(2) Subject to this section, the following persons may be an appropriate superior authority in relation to a person charged with an offence :

- (a) the Commander;
- (b) any other officer or panel of officers appointed for the purpose by the Governor under subsection (3).

(3) Where a commander is the commanding officer of the unit to which a person charged with an offence belongs, the Governor shall appoint such person or body of persons to be the appropriate superior authority.

(4) Rules of procedure may confer on officers, or any class of officers, who are authorised by such rules to exercise the functions of commanding officer, power to delegate those functions, in such cases and to such extent as may be specified in such Rules, to officers of a class so specified.

**83.** (1) Rules of Procedure may specify the charges which may not be dealt with summarily—

- (a) by a commanding officer;
- (b) by an appropriate superior authority; and
- (c) by a commanding officer or an appropriate superior authority except with the permission of an officer authorised to convene a court-martial for the trial of the accused.

Limitation on powers of summary dealing with charges

(2) A commanding officer or an appropriate superior authority may deal summarily with the following charges :—

- (a) any charge not specified by Rules of Procedure; and
- (b) any charge which may be dealt summarily with permission of an officer authorised to convene a court-martial, upon the obtaining of such permission.

(3) The powers of a commanding officer or appropriate superior authority to impose punishment shall be subject to such limitations as may be specified in that behalf by the Rules of Procedure.

#### COURT-MARTIAL: GENERAL PROVISIONS

Trial by, and powers of, ordinary court-martial

**84.** Subject to this Act, a court-martial (herein referred to as an "ordinary court-martial") may try a person subject to military law for an offence which is triable by court-martial and impose for such an offence the punishment authorised by this Act for that offence.

Trial by, and powers of field court-martial

**85.** (1) Where an officer commanding a body of troops on active service,

(a) being an officer to whom under subsection (1) section 80 of this Act, a charge has been submitted for determining how it is to be dealt with; or

(c) being the accused's commanding officer or the appropriate superior authority who has investigated a charge on which the accused has elected to be tried by court-martial,

is of opinion that it is not possible without serious detriment to the public service that the charge should be tried by an ordinary court-martial, he may (whether or not he is authorised to convene ordinary courts-martial) direct that the charge shall be tried by a field court-martial.

Officers having powers to convene courts-martial

**86.** (1) The Commander or an officer authorised by the Minister to convene ordinary courts-martial may convene an ordinary court-martial.

(2) The officer who directs that a charge be tried by field court-martial may convene a field court-martial.

(3) The Minister, when he issues an authorisation under subsection (1) to convene ordinary courts-martial, may

(a) make such authorisation subject to restrictions, reservations, exceptions or conditions;

(b) address such authorisation to officers by name or by designation of their officers, and may cause it to be issued or given to a named or designated officer, to a named or designated officer and to the person for the time being performing the duties of his office, to a named or

designated officer and his successors in that office or to a named or designated officer and such person and his successors;

- (c) vary or revoke such authorisation either wholly or in part.

87. (1) An ordinary court-martial shall consist of the president and not less than two other officers; but where Constitution of ordinary courts-martial

(a) an officer is to be tried; or

(b) the only punishment or the maximum punishment which can be imposed in respect of a charge before the court is death,

an ordinary court-martial shall consist of five members.

(2) Subject <sup>40 is herein provided</sup> to this section, an officer shall not be appointed a member of an ordinary court-martial unless he belongs to the Force, is subject to service law and has been an officer in any of the armed forces of the Crown for a period of not less than two years or for periods amounting in the aggregate to not less than two years.

(3) Not less than two of the members of an ordinary court-martial shall be of a rank not below that of captain or corresponding rank.

(4) The president of an ordinary court-martial shall be appointed by order of the convening officer and shall not be under the rank of field officer unless in the opinion of the convening officer a field officer having suitable qualifications is not, with due regard to the public service, available; and in any event the president of an ordinary court-martial shall not be under the rank of a captain or corresponding rank.

(5) The members of an ordinary court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.

(6) An officer under the rank of captain or corresponding rank shall not be a member of an ordinary court-martial for the trial of an officer above that rank.

88. (1) A field court-martial shall consist of the president and not less than two other officers, or, if the convening officer is of opinion that three officers having suitable qualifications are not available without serious detriment to the public service, shall consist of the president and one other officer. Constitution of field courts-martial

35/70

(2) Subject to subsections (3) and (4), the members of a field court-martial shall be persons belonging to the Force and subject to service law.

(3) The president of a field court-martial shall be an officer appointed by the convening officer and shall not be under the rank of captain.

(4) The members of a field court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.

Supplementary provisions as to constitution of courts-martial

**89.** (1) The officer who convenes a court-martial shall not be a member of that court-martial but if in the case of a field court-martial it is not practicable in the opinion of the convening officer to appoint another officer as president, he may himself be president of the court-martial.

(2) An officer, who at any time between the date on which the accused was charged with the offence and the date of the trial, has been the commanding officer of the accused, and any other officer who has investigated the charge against the accused, or who under service law has held, or has acted as one of the persons holding, an inquiry into matters relating to the subject matter of the charge against the accused, shall not sit as a member of an ordinary court-martial or act as judge advocate at such a court-martial.

<sup>2A</sup>  
(3) Where

(a) the officer convening an ordinary court-martial appoints a captain or corresponding rank to be president, being of opinion that a field officer having suitable qualifications is not with due regard to the public service available; or

(b) the officer convening any court-martial appoints <sup>A person as defined in Subsection 8</sup> an officer not being a military officer as president or any other member of the court, being of opinion that the necessary number of military officers having suitable qualifications is not available to form the court and cannot be made available with due regard to the public service,

the order convening the court-martial shall contain a statement of such opinion, and that statement shall be conclusive for all intents and purposes.

35/70

(4) In this section the expression "military officer" means any officer belonging to the Force and subject to service law. *Aug "Person" includes an officer of a Commonwealth Force*

38/30

90. (1) Subject to the provisions of this section, a court-martial shall sit at such place as may be specified in the order convening the court; but the convening officer may convene it to sit at a place outside the limits of his command.

Place for sitting of courts-martial and adjournment to other places

(2) A court-martial sitting at any place shall, if the convening officer directs it to sit at some other place, and may without any such direction, if it appears to the court requisite in the interests of justice to sit at some other place, adjourn for the purpose of sitting at that other place.

#### COURTS-MARTIAL: PROVISIONS RELATING TO TRIAL

91. (1) An accused about to be tried by any court-martial is entitled to object, on any reasonable grounds, to any member of the court, whether appointed originally or in lieu of another member.

Challenges by accused

(2) For the purpose of enabling the accused to avail himself of the right conferred by subsection (1), the names of the members of the court shall be read over in the presence of the accused before they are sworn, and he shall be asked whether he objects to any of those officers.

(3) Every objection made by an accused to any officer shall be considered by the other officers appointed members of the court.

(4) If objection is made to the president and not less than one-third of the other members of the court allow it, the court shall adjourn and the convening officer shall appoint another president.

(5) If objection is made to a member of the court other than the president and not less than one-half of the members entitled to vote allow it, the member objected to shall retire and the vacancy may, and if otherwise the number of members would be reduced below the legal minimum shall, be filled in the prescribed manner by another officer.

92. (1) Subject to section 101, an oath shall be administered to every member of a court-martial and to any person in attendance on a court-martial as judge advocate, officer under instruction, shorthand writer or interpreter.

Administration of oaths

(2) Subject to section 101, every witness before a court-martial shall be examined on oath but where any child of tender years called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received, though not given upon oath, if in the opinion of the court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth, so however that, where the evidence is given on behalf of the prosecution, the accused shall not be liable to be convicted upon such evidence alone unless it is corroborated by some other material evidence in support thereof implicating the accused.

(3) An oath required to be administered under this section shall be in the prescribed form and shall be administered at the prescribed time by the prescribed person and in the prescribed manner.

Courts-martial  
to sit in open  
court

**93.** (1) Subject to this section, a court-martial shall sit in open court and in the presence of the accused.

(2) Nothing in subsection (1) shall affect the power of a court-martial to sit *in camera* on the ground that it is necessary or expedient in the interests of the administration of justice to do so; and without prejudice to that power, a court-martial may order that, subject to any exceptions the court may specify, the public shall be excluded from all or any part of the proceedings of the court if it appears to the court that any evidence to be given or statement to be made in the course of the proceedings or that part, as the case may be, might otherwise lead to the disclosure of any information which would or might be directly or indirectly useful to an enemy.

(3) A court-martial shall sit in closed court while deliberating on their finding or sentence on any charge.

(4) A court-martial may sit in closed court on any other deliberation amongst the members.

(5) Where a court-martial sits in closed court no person shall be present except the members of the court and such other persons as may be prescribed.

Dissolution of  
courts-martial

**94.** (1) Where, whether before or after the commencement of the trial, it appears to the convening officer necessary or expedient in the interests of the administration

of justice that a court-martial should be dissolved, the convening officer may by order dissolve the court-martial.

(2) Without prejudice to the generality of subsection (1), if after the commencement of the trial a court-martial is, by reason of the death of one of the members or for any other reason, reduced below the legal minimum, it shall be dissolved.

(3) If after the commencement of the trial the president dies or is otherwise unable to attend and the court is not reduced below the minimum number required by this Act, then

(a) if the senior member of the court is of the rank of captain or corresponding rank or is of higher rank, the convening officer may appoint him president and the trial shall proceed accordingly;

(b) if he is not of such rank or corresponding rank, the court shall be dissolved.

(4) Without prejudice to the generality of subsection (1), if after the commencement of the trial it is represented to the convening officer that owing to the sickness or other incapacity of the accused it is impracticable having regard to all the circumstances to continue the trial within a reasonable time, the convening officer may dissolve the court.

(5) Where a court-martial is dissolved under this section, the accused may be tried by another court-martial.

95. (1) Subject to this section, every question to be determined on a trial by court-martial shall be determined by a majority of the votes of the members of the court. Decisions of courts-martial.

(2) In the case of an equality of votes on the finding, the court shall acquit the accused.

(3) A finding of guilty where the only punishment which the court can impose is death shall not have effect unless it is reached with the concurrence of all members of the court; and where on such a finding being come to by a majority of the members there is no such concurrence, the court shall be dissolved and the accused may be tried by another court.

(4) A court that finds an accused guilty and has power to sentence him either to death or to less punishment shall not pass sentence of death without the concurrence of all of its members.

Finding and sentence.

**96.** (1) Without prejudice to the provisions of section 94, the finding of a court-martial on each charge shall be announced in open court.

(2) Every finding of guilty shall be, and shall be announced as being, subject to confirmation.

(3) Every sentence of a court-martial shall be announced in open court, and a sentence of a court-martial shall be, and be announced as being, subject to confirmation.

Power to convict of offence other than that charged.

**97.** (1) An accused charged before a court-martial with an offence, may, on failure of proof of the offence having been committed under circumstances involving a higher degree of punishment, be found guilty of the offence as having been committed under circumstances involving a less degree or punishment.

(2) An accused charged before a court-martial with any offence may be found guilty of attempting to commit that offence.

(3) An accused charged before a court-martial with attempting to commit an offence may be convicted on that charge notwithstanding that it is proved that he actually committed the offence.

(4) Where an accused is charged before a court-martial under section 70 in respect of attempting to commit a civil offence, he may be convicted on that charge notwithstanding that it is proved that he actually committed the civil offence.

(5) Where an accused is charged before a court-martial with an offence against section 70, and the corresponding civil offence is one in proceedings for which, if he had been tried by a civil court, he might have been found guilty of another civil offence, then if the court finds that he has committed that other civil offence, he may be convicted of an offence against section 70 in respect of the commission of that other civil offence.

Second Schedule.

(6) An accused charged before a court-martial with an offence specified in the first column of the Second Schedule may be found guilty of an offence specified in relation thereto in the second column of that Schedule.

98. (1) Subject to this Act, the rules of evidence to be <sup>Rules of evidence.</sup> observed in proceedings before courts-martial shall be the same as those observed in civil courts in the Territory, and no person shall be required in proceedings before a court-martial to answer any question or to produce any document which he could not be required to answer or produce in similar proceedings before a civil court in the Territory.

(2) Notwithstanding anything in subsection (1), a statutory declaration shall, in a trial by court-martial, be admissible as evidence of the facts stated in the declaration in a case where, and to the extent which, oral evidence to the like effect would be admissible in that trial but a statutory declaration shall not be admitted in evidence in any such trial on behalf either of the prosecution or of the defence

- (a) where the declaration is put forward on behalf of the prosecution, unless a copy of the declaration has, not less than seven days before the commencement of the trial, been served on the accused; or
- (b) where the declaration is put forward on behalf of the defence, unless a copy of the declaration has, not less than seven days before the commencement of the trial or such shorter time as the court-martial may allow, been served on the commanding officer of the accused; or
- (c) in any case, if, not later than three days before the commencement of the trial or within such further time as the court-martial may in special circumstances allow, the accused or, as the case may be, the commanding officer of the accused serves a notice in the prescribed form on the commanding officer or accused requiring that oral evidence shall be given in lieu of the declaration; or
- (d) in any case, if the court-martial is of opinion that it is desirable in the interests of justice that oral evidence should be given in lieu of the declaration and declares that it is of that opinion.

(3) A court-martial shall take judicial notice of all matters of notoriety, including all matters within the general service knowledge of the court, and of all other

matters of which judicial notice would be taken in a civil court in the Territory.

Privilege of witnesses and others at courts-martial.

**99.** A witness before a court-martial or any other person whose duty it is to attend on or before the court shall be entitled to the same immunities and privileges as a witness before the Supreme Court.

Offences by civilians in relation to courts-martial.

**100.** (1) Where any person other than a person subject to military law—

- (a) having been duly summoned to attend as a witness before a court-martial, fails to comply with the summons; or
- (b) refuses to swear an oath when duly required by a court-martial to do so; or
- (c) refuses to produce any document in his custody or under his control which a court-martial has lawfully required him to produce; or
- (d) when a witness, refuses to answer any question which a court-martial has lawfully required him to answer; or
- (e) wilfully insults any person, being a member of a court-martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as aforesaid while that person is going to or returning from the proceedings of the court; or
- (f) wilfully interrupts the proceeding of a court-martial or otherwise misbehaves before the court; or
- (g) does any other thing which would, if the court-martial had been a court of law having power to commit for contempt, have been contempt of that court,

the president of the court-martial may certify the offence of that person under his hand to any court being a court having power to commit for contempt, and that court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner

as if he had been guilty of contempt of the court to which the offence is certified.

(2) In this section "court-martial" means a court-martial held under service law.

**101. Where**

*Affirmations.*

- (a) a person required by this Act to take an oath for the purposes of proceedings before a court-martial objects to being sworn, and states as the ground of his objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief; or
- (b) it is not reasonably practicable to administer an oath to such a person as aforesaid in the manner appropriate to his religious belief,

he shall be required to make a solemn affirmation in the prescribed form instead of taking an oath.

CONFIRMATION, REVISION AND REVIEW OF  
PROCEEDINGS OF COURTS-MARTIAL

**102.** (1) A court-martial that finds the accused guilty on any charge, shall transmit the record of its proceedings to a confirming authority for confirmation of the finding and sentence of the court on that charge.

*Confirmation of proceedings of courts-martial.*

(2) A finding of guilty or sentence of a court-martial shall not be treated as a finding or sentence of the court until confirmed; but this subsection does not affect the keeping of the accused in custody pending confirmation, or the operation of sections 103 and 104 or the provisions of this Act relating to confirmation or approval.

**103.** At any time after a court-martial has sentenced the accused, but not later than the prescribed time after confirmation is completed, the accused may in prescribed manner present a petition against finding or sentence or both.

*Petitions against finding or sentence.*

**104.** (1) A confirming authority may direct that a court-martial shall revise any finding of guilty come to by the court in any case where it appears to him

*Revision of findings of courts-martial.*

- (a) that the finding was against the weight of evidence; or
- (b) that some question of law determined at the trial and relevant to the finding was wrongly determined.

(2) Any such direction shall be accompanied by the necessary directions for the re-assembly of the court, and shall contain a statement of the reasons for the direction.

(3) On any revision of a finding the court shall reconsider the finding, and (unless the court adheres thereto) may substitute therefor either a finding of not guilty or any other finding to which the court could originally have come at the trial in lieu of the finding under revision.

(4) On any such revision the court shall not receive further evidence.

(5) Where on any such revision, the court either adheres to the original finding or substitutes therefor a finding of guilty of another offence, or of the same offence in different circumstances, the court may substitute a different sentence for the original sentence; but the court shall not substitute a sentence of a punishment greater than the punishment or the greatest of the punishments imposed by the original sentence, or substitute a sentence which in the opinion of the court is more severe than the original sentence.

(6) The confirming authority shall not direct the revision of any substituted finding come to by the court on previous direction of the confirming authority, or the revision of the original finding if adhered to by the court on such a previous direction; but save as aforesaid this Act applies to the proceedings of the court on any such revision as it applies to their deliberations on the original finding or sentence, and any substituted finding or sentence shall be treated for all purposes as an original finding or sentence of the court but the decision of the court on the revision is not required to be announced in open court.

Powers of  
confirming  
authorities.

**105.** (1) Subject to section 104 and to this section, a confirming authority shall deal with the finding or sentence of a court-martial by

(a) withholding confirmation, if of opinion that the finding of the court is unreasonable or cannot be supported having regard to the evidence or involves a wrong decision on a question of law or that, on any ground, there was a miscarriage of justice; or

- (b) confirming the finding or sentence; or
- (c) referring the finding or sentence, or both, for confirmation to a higher confirming authority.

(2) In lieu of withholding confirmation of the finding of a court-martial, a confirming authority may, if

- (a) some other finding of guilty could have been validly made by the court-martial on the charge before it; and
- (b) he is of opinion that the court-martial must have been satisfied of the facts necessary to justify that other finding,

substitute that other finding, and if he does so he shall consider in what manner, if at all, the powers conferred by subsection (4) may be exercised.

(3) Where it appears to a confirming authority that a sentence of a court-martial is invalid, he may in lieu of withholding confirmation of the sentence substitute therefor a sentence of any punishment or punishments which could have been imposed by the court, not being greater than the punishment or the greatest of the punishments imposed by the court and not in his opinion more severe than that punishment or those punishments.

(4) In confirming the sentence of a court-martial, the confirming authority may

- (a) remit in whole or in part any punishment imposed by the court; or
- (b) commute any such punishment for one or more punishment or punishments provided by this Act, being less than the punishment commuted.

(5) A finding or sentence substituted by the confirming authority or any sentence having effect after the confirming authority has remitted or commuted punishment, shall be treated for all purposes as a finding or sentence of the court duly confirmed.

(6) The confirmation of a finding or sentence shall not be deemed to be completed until the finding or sentence has been promulgated; and in the event of a substitution, remission or commutation under this section, the finding or sentence shall be promulgated as it has effect after such substitution, remission or commutation.

(7) Where the confirming authority determines to withhold confirmation, the determination shall be promulgated and has effect as from the promulgation thereof.

Confirming  
authorities.

**106.** (1) Subject to this section, the following persons may confirm the finding and sentence of a court-martial:—

- (a) the officer who convened the court-martial or an officer superior in command to that officer; or
- (b) the successor of such officer or superior officer, or a person for the time being exercising the functions of such officer or superior officer; or
- (c) failing any such officer, a person or persons appointed by the Governor to act as confirming authority whether for the particular case or for a specified class of cases.

(2) The following shall not have power to confirm the finding or sentence of a court-martial:—

- (a) any officer who was a member of the court-martial; or
- (b) any person who, as appropriate superior authority investigated the allegations against the accused;

but a person excluded by this subsection may act as confirming authority for a field court-martial, if otherwise having power to do so, where he is of opinion that it is not practicable, having due regard to the public service, to delay the case for the purpose of referring it to another confirming authority.

(3) An authorisation empowering the convening of an ordinary court-martial may reserve for confirmation by superior authority findings or sentences or both in such circumstances as may be specified by or under the authorisation, and the powers conferred by subsection (1) are exercisable subject to any such reservation.

Approval as well  
as confirmation  
required for  
death sentences.

**107.** A sentence of death shall not be carried into effect unless it has been approved by the Governor.

**108.** (1) A finding or sentence which has been confirmed shall be reviewed by the reviewing authority as soon as it is reasonably practicable so to do, and if after confirmation of a finding or sentence a petition is duly presented under section 103 against the finding or sentence, then, subject to this section, the finding or sentence shall be reviewed as soon as may be after the presentation of the petition and after consideration of the matters alleged therein.

Review of findings and sentences of courts-martial.

(2) The reviewing authority for the purposes of this Act is such officer as the Governor may from time to time appoint.

(3) If an application for leave to appeal is received by the Registrar of the Supreme Court under Part V, so much of subsection (1) as requires the review of a finding or sentence against which a petition has been presented, shall thereupon cease to apply to the finding to which the application for leave to appeal relates and the sentence passed in consequence of that finding.

(4) On a review under this section, the reviewing authority **may**

(a) in so far as the review is of a finding, quash the finding and, if the sentences relate only to the finding quashed, the sentence; or

(b) in so far as the review is of a sentence, quash the sentence; or

(c) in any case, exercise the like powers of substituting findings, substituting valid for invalid sentences and remitting or commuting punishment as are conferred on a confirming authority by subsections (2) to (4) of section 105,

and any substituted finding or sentence, or sentence having effect after the remission or commutation of punishment, shall be treated for all purposes as sentence of the court duly confirmed.

(5) Where a reviewing authority exercises any of the powers conferred by subsection (4), the determination of the authority shall be promulgated and shall have effect as from the promulgation thereof.

**109.** (1) The Governor may from time to time reconsider sentences of imprisonment and of detention; and if on any such reconsideration it appears to the Governor that the conduct of the offender since his conviction has been

Reconsideration of sentences of imprisonment and detention.

such as to justify a remission of the sentence imposed upon him, he may, in part or in whole, remit the sentence accordingly.

(2) The Governor—

(a) may reconsider a sentence at any time after it has been confirmed; and

(b) shall at intervals of six months reconsider a sentence that has been reviewed and remains effective.

(3) A delay in complying with requirements of paragraph (b) of subsection (2) does not invalidate a sentence of imprisonment or detention.

#### REVIEW OF SUMMARY FINDINGS AND SENTENCES

Review of  
summary findings  
and sentences.

**110.** (1) Where a charge has been dealt with summarily, otherwise than by the dismissal thereof, the reviewing authority may at any time review the finding or sentence.

(2) The reviewing authority may, where on a review under this section he is of the opinion that it is expedient so to do by reason of any mistake of law in the proceedings on the summary dealing with the charge or of anything occurring in those proceedings which involved substantial injustice to the accused, quash the finding; and if the authority quashes the finding, he shall also quash the sentence.

(3) Where on a review under this section the reviewing authority is of the opinion that a punishment imposed was invalid, or too severe, or (where the sentence included two or more punishments) that those punishments or some of them could not validly have been imposed in combination or are, taken together, too severe, the reviewing authority may vary the sentence by substituting such punishment or punishments as he may think proper, being a punishment or punishments which could have been included in the original sentence and not being in the opinion of the reviewing authority more severe than the punishment or punishments included in the original sentence.

#### FINDINGS OF INSANITY, ETC.

Provisions where  
accused found  
insane.

**111.** (1) Where, on the trial of a person by court-martial, it appears to the court that the accused is by reason of insanity unfit to stand his trial, the court shall so find;

and if the finding is confirmed in accordance with this section, the accused shall be kept in custody in such manner as may be provided by or under rules until the directions of the Governor are known or until any earlier time at which the accused is fit to stand his trial.

(2) Where, on the trial of a person by court-martial, it appears to the court that the evidence is such as, apart from any question of insanity, to support a finding that the accused was guilty of any offence, but that at the time of the acts constituting that offence the accused was insane, the court shall find that the accused was guilty of that offence but was insane at the said time, and thereupon the accused shall be kept in custody in such manner as may be provided by or under rules until the directions of the Governor are known.

(3) In the case of any such finding as aforesaid the Governor may give orders for the safe custody of the accused during his pleasure in such place and in such manner as the Governor thinks fit.

(4) A finding under subsection (1) shall not have effect until the finding has been confirmed by an authority who would have had power to confirm a finding of guilty come to by the court-martial in question and has been promulgated.

(5) Where the court or the confirming authority comes to or substitutes a finding of guilty but insane, the confirming authority or, as the case may be, the reviewing authority shall not substitute for that finding a finding of guilty; but save as aforesaid the provisions of this Act as to revision, confirmation and review (and in particular the provisions of this Act which confer power to substitute for any finding any other finding which could have been come to by the court-martial in question) apply in relation to such findings as are provided for by subsection (2) as those provisions apply in relation to other findings of guilty.

#### COMMENCEMENT, SUSPENSION AND DURATION OF SENTENCES

**112.** A military sentence of imprisonment or detention or a sentence of field punishment shall, subject to the provisions of section 136 begin to run from the beginning of the day on which sentence was originally pronounced by the court-martial trying the offender or, as the case may be, was originally imposed by his commanding officer.

Commencement of sentences.

Duration of sentences of imprisonment or detention.

113. (1) Where any person serving a military sentence of imprisonment or detention becomes unlawfully at large during the currency of the sentence, then, in calculating the period for which he is liable to be imprisoned in pursuance of the sentence, no account shall be taken of time elapsing at large and ending with the day on which, as a person having become unlawfully at large, he is taken into military custody or the custody of a civil authority or, not having been taken into such custody, he returns to the place in which he was imprisoned or detained before he became unlawfully at large; but if he satisfies such authority as may be specified for that purpose by Imprisonment and Detention Rules that at any time during the last-mentioned period he was

- (a) in the custody of a civil authority; or
- (b) if and in so far as Imprisonment and Detention Rules so provide, in the custody of any military authority of any country or territory outside the Territory as respects which arrangements have been made under section 116,

otherwise than on account of an offence committed by him while unlawfully at large, the last-mentioned time shall not be disregarded in calculating the period for which he is liable to be imprisoned or detained in pursuance of the military sentence.

(2) In subsection (1) the expression "civil authority" means a civil authority authorised by law to detain persons, and includes a constable.

(3) Without prejudice to subsection (1), where any person serving a military sentence of imprisonment or detention has in accordance with Imprisonment and Detention Rules been temporarily released on compassionate grounds, then, in calculating the period for which he is liable to be imprisoned or detained in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day after that on which he is released and ending with the day on which he is required to return to custody.

(4) A person who for any period is released as mentioned in subsection (3) or who is otherwise allowed, in pursuance of Imprisonment and Detention Rules, out of military custody for any period or subject to any con-

dition shall, on failure to return at the expiration of the period or to comply with the condition, be treated for the purposes of subsection (1) as being unlawfully at large.

(5) A person serving a military sentence of imprisonment or detention in civil custody who, after being temporarily released under civil law, is at large at any time during the period for which he is liable to be detained in civil custody in pursuance of his sentence shall be deemed to be unlawfully at large if the period for which he was temporarily released has expired or if an order recalling him has been made in pursuance of civil law.

114. A person shall not be required to serve any part of a military sentence of detention in a military or civil prison; but in such cases and subject to such conditions as may be specified by or under Imprisonment and Detentions Rules, a person serving such a sentence may be temporarily detained in a military or civil prison for any period not exceeding seven days.

Restrictions on serving of sentences of detention in prisons.

115. A person sentenced to death or imprisonment and committed or transferred to a civil prison in pursuance of rules made under this Part or of Imprisonment and Detention Rules shall, while in that prison, be confined and otherwise dealt with in the same manner as a person confined therein under a like sentence of a civil court.

Special provisions as to civil prisons in the Territory.

116. The Governor may from time to time make arrangements with the authorities of any country outside the Territory whereby sentences of death passed by courts-martial may in accordance with rules made under this Part be carried out in establishments under the control of those authorities and military sentences of imprisonment or detention may in accordance with Imprisonment and Detention Rules be served wholly or partly in such establishments.

Special provisions as to carrying out or serving of sentences outside the Territory.

117. (1) Subject to this section, a person sentenced under this Act, by a court-martial held out of the Territory, to imprisonment or detention for more than twelve months shall as soon as practicable after the confirmation of the sentence is completed be removed to the Territory.

Country in which sentence of imprisonment or detention to be served.

(2) Where a person has been sentenced under this Act by a court-martial held out of the Territory, to imprisonment or detention for more than twelve months,

the confirming or reviewing authority may, notwithstanding anything in subsection (1), direct that he shall not be required to be removed to the Territory until he has served such part of his sentence, not exceeding (in the case of a sentence of more than two years imprisonment) two years, as may be specified in the direction; and in determining whether or not to exercise the powers conferred by this subsection, a confirming or reviewing authority shall have regard to any recommendation in that behalf made by the court-martial.

(3) Any direction of a confirming authority under this section may at any time be revoked by the confirming authority or by a reviewing authority, or superseded by any direction of a confirming authority or a reviewing authority which the authority could have given under subsection (2); and any direction of a reviewing authority under this section may at any time be revoked by a reviewing authority or superseded as aforesaid.

(4) Any direction given under this section, and the revocation of any such direction, shall be promulgated.

(5) In ascertaining at any time for the purposes of this section the nature or length of a sentence, regard shall be had to any commutation or remission of the sentence previously directed.

Duties of officers  
in charge of  
prisons and others  
to receive  
prisoners.

**118.** (1) The superintendent or other person in charge of a prison (not being a military prison) shall, in so far as rules made under this Part or Imprisonment and Detention Rules so provide, receive any person duly sent to that prison in pursuance of such rules and confine him until execution of the sentence is completed or the prisoner is discharged or delivered over in due course of law.

(2) Where a person is in military custody in pursuance of a military sentence of imprisonment or detention, then on receipt of a written order in that behalf purporting to be signed by that person's commanding officer, the superintendent or other person described in subsection (1), the member of the Police Force in charge of a police station or the person in charge of any other place in which prisoners may be lawfully confined, shall keep that person in custody for a period not exceeding seven days unless the said person is earlier discharged or delivered over in due course of law.

TRIAL OF PERSONS CEASING TO BE SUBJECT TO MILITARY  
LAW UNDER THE ACT AND TIME LIMITED FOR TRIALS

119. (1) Subject to section 120, where an offence triable by court-martial has been committed, or is reasonably suspected of having been committed, by any person while subject to military law, then in relation to that offence he shall be treated, for the purposes of the provisions of this Act relating to arrest, keeping in custody, investigations of charges, trial and punishment by court-martial (including confirmation, review, and reconsideration) and execution of sentences as continuing subject to military law notwithstanding his ceasing at any time to be subject thereto.

Trial and punishment of offences under this Act where the offender ceases to be subject thereto.

(2) Where, while a person is in military custody by virtue of this section (whether before, during or after trial) he commits, or is reasonably suspected of having committed, an offence which if he were subject to military law would be an offence triable by court-martial, then in relation to that offence or suspected offence he shall be treated, for the purposes of this Act mentioned in subsection (1) and the provisions thereof as to the summary dealing with charges, as having been subject to military law when the offence was committed or is suspected of having been committed and as continuing subject thereto thereafter.

(3) Where by virtue of either of subsection (1) or subsection (2) a person is treated as being at any time subject to military law for the purpose of any provision of this Act, that provision applies to him

- (a) if he holds any military rank, as to a person having that rank;
- (b) otherwise as to a person having the rank which he had when last actually subject to military law;

but any time after he has been sentenced and the sentence has been confirmed that provision applies to him as to an other rank.

(4) Where under subsection (3) a provision of this Act other than this subsection applies to a person, in relation to different offences, as to a person having different ranks, it applies to him as to a person having the lower or lowest of those ranks.

Limitation of time for trial of offences under this Act.

**120.** (1) No person shall be tried by court-martial for any offence, other than one against section 33 or section 34 or desertion, unless the trial is begun within three years after the commission of the offence, there being disregarded any time during which he was a prisoner of war and any time during which he was illegally absent; but in the case of an offence against section 70 of this Act, where proceedings for the corresponding civil offence is required by any law to be brought within a limited time, that limit of time shall apply to the trial of the offence under the said section 70 in substitution for the foregoing provisions of this subsection.

(2) Where a person who has committed an offence of desertion, other than desertion on active service, has since the offence served as a member of the Force continuously in an exemplary manner for not less than three years, he shall not be tried for that offence.

(3) A person shall not be triable by virtue of subsection (1) of section 119 unless his trial is begun within three months after he ceases to be subject to military law; but this subsection shall not apply to an offence against section 33 or section 34 of this Act or to the offence of desertion.

(4) A person shall not be arrested, or kept in custody by virtue of subsection (1) of section 119 of this Act for an offence at any time after he has ceased to be triable for the offence.

#### RELATIONS BETWEEN MILITARY AND CIVIL COURTS AND FINALITY OF TRIALS

Powers of civil courts.

**121.** (1) Save as provided in section 145, nothing in this Act restricts the offences for which persons may be tried by any civil court, or the jurisdiction of any civil court to try a person subject to military law under this Act for any offence.

(2) Where a person is tried by a civil court for any offence, and he has previously been sentenced by court-martial held under service law to punishment for any act constituting (whether wholly or in part) that offence, or in pursuance of this Act he has been punished for any such act by his commanding officer or an appropriate superior authority, the civil court shall, in awarding punishment, have regard to his punishment in pursuance of this Act.

**122.** (1) Where a person subject to military law under this Act

Persons not to be tried under this Act for offences already disposed of.

(a) has been tried for an offence by a civil court or a court-martial under service law, or has had an offence committed by him taken into consideration by any such court in sentencing him; or

(b) has been charged with an offence under service law, and has had the charge dismissed, or has been found guilty on the charge by his commanding officer or an appropriate superior authority; or

(c) has had an offence condoned by his commanding officer,

he is not liable in respect of that offence to be tried by court-martial or to have the case dealt with summarily by his commanding officer or the appropriate superior authority.

(2) For the purposes of this section,

(a) a person shall not be deemed to have been tried by a court-martial if confirmation is withheld of a finding by the court-martial that he is guilty of the offence;

(b) a person shall not be deemed to have had an offence taken into consideration by a court-martial in sentencing him if confirmation of the sentence of the court-martial is withheld or the sentence is quashed;

(c) a case shall be deemed to have been dealt with summarily by the commanding officer or an appropriate superior authority notwithstanding that on the review thereof the finding of that

officer or authority has been quashed, or the sentence of that officer or authority quashed or varied;

- (d) an offence shall be deemed to have been condoned by the commanding officer of a person alleged to have committed the offence if, and only if, that officer or any officer authorised by him to act in relation to the alleged offence has with knowledge of all relevant circumstances informed him that he will not be charged therewith;
- (e) a person ordered under subsection (2) of section 58 or the corresponding provisions of any service law, to be imprisoned or to undergo detention for an offence against that section or provision shall be deemed to have been tried by court-martial for the offence.

(3) Where confirmation of a finding of guilty of an offence is withheld, the accused shall not be tried again by court-martial for that offence unless the order convening the later court-martial is issued not later than twenty-eight days after the promulgation of the decision to withhold confirmation.

(4) Subject to this section proceedings for an offence against this Act (whether before a commanding officer or appropriate superior authority or before a court-martial) shall not be barred on the ground of condonation.

### INQUIRIES

**Boards of inquiry.** 123. (1) Subject to and in accordance with the provisions of rules made under this Part (herein referred to as "Board of Inquiry Rules"), the Minister or any officer empowered by or under such rules so to do, may convene a board of inquiry to investigate and report on the facts relating to—

- (a) the absence of any person subject to military law under this Act; or
- (b) the capture of any such person by the enemy; or
- (c) the death of any person where an inquiry into the death is not required to be held by any civil authority; or

(d) any other matter of a class specified in such rules or referred to such a board by the Minister or any such officer,  
and a board of inquiry shall, if directed so to do, express their opinion on any question arising out of any matters referred to the board.

(2) A board of inquiry shall consist of such number of persons as may be provided for by Board of Inquiry Rules, who shall be persons subject to service law and the president of a board of inquiry shall be an officer not below the rank of lieutenant or corresponding rank.

(3) Evidence given before a board of inquiry is not admissible against any person in proceedings before a court-martial, commanding officer or appropriate superior authority other than proceedings for an offence against section 59 or section 70 when the corresponding civil offence is perjury.

124. (1) Where a board of inquiry inquiring into the absence of an officer or other rank reports that he has been absent without leave or other sufficient cause for a period specified in the report, not being less than twenty-one days, a record of the report shall in accordance with Board of Inquiry Rules be entered in the service books. Inquiries into absence.

(2) A record entered in pursuance of subsection (1) shall, unless the absentee subsequently surrenders or is arrested, or the report of the board of inquiry is annulled by the Minister, or a subsequent board of inquiry, have the like effect as a conviction by court-martial for desertion.

#### MISCELLANEOUS PROVISIONS

125. (1) This section has effect where a person has been convicted by court-martial of unlawfully obtaining any property, whether by stealing it or receiving it knowing or having reason to believe it to have been stolen, fraudulently misapplying it or otherwise. Restitution or compensation for theft, &c.

(2) Where any of the property unlawfully obtained has been found in the possession of the offender, it may be ordered to be delivered or paid to the person appearing to be the owner thereof.

(3) Where there has been found in the possession of the offender any property (other than money) appearing to have been obtained by him by the conversion or exchange of any of the property unlawfully obtained, the

property may be ordered to be delivered to the person appearing to be the owner of the property unlawfully obtained.

(4) Where money is found in the possession of the offender, then whether or not it appears to have been obtained as aforesaid, an order may be made that there shall be paid out of that money to the person appearing to be the owner of the property unlawfully obtained such sum as may be specified in the order as or towards compensation for the loss caused to the said person by the offence, in so far as not otherwise made good under this Act or by the recovery of the property unlawfully obtained.

(5) Where any of the property unlawfully obtained has been sold or given in pawn to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner thereof of the property sold or given as aforesaid, there shall be paid to the said other person, out of any money found in the possession of the offender (whether or not the money appears to be proceeds of the sale or giving in pawn), such sum as may be specified in the order as or towards compensation for the loss caused to him in consequence of the sale or giving in pawn.

(6) Where any of the property unlawfully obtained has been given in exchange to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner thereof of the property given as aforesaid, there shall be restored to the said other person the property taken in exchange for the property unlawfully obtained.

(7) An order under this section may be made by the court-martial by whom the offender is convicted, by the confirming or by any reviewing authority; and in this section the expression "appearing" means appearing to the court, officer or authority making the order.

(8) An order under this section made by a court-martial shall not have effect until confirmed by the confirming authority; and the provisions of this Part as to the confirmation and review of the proceedings of courts-martial apply to an order under this section as they apply to a sentence.

(9) The operation of any order under this section shall be suspended

- (a) in any case, until the expiration of the period prescribed under Part IV as the period within which an application for leave to appeal to the Supreme Court against the conviction shall be lodged; and
- (b) if such an application is duly lodged, until either the application is finally refused or is withdrawn or the appeal is determined or abandoned;

and where the operation of such order is suspended under this section—

- (c) it shall not take effect if the conviction is quashed on appeal;
- (d) the Supreme Court may by order annul or vary the order although the conviction is not quashed;
- (e) such steps shall be taken for the safe custody, during the period which the operation of the order is suspended, of the property ordered to be restored or handed over or the money to which the order relates as may be provided by rules of court made under Part V.

(10) Notwithstanding anything contained in subsection (9), an order under this section shall not, so far as it relates to the delivery of property to the person appearing to be the owner thereof, be suspended if the court or authority making the order directs to the contrary in any case in which, in the opinion of the court or authority, the title to the property is not in dispute.

(11) An order under this section shall not bar the right of any person, other than the offender or a person claiming through him, to recover any property delivered or paid in pursuance of such an order from the person to whom it is delivered or paid.

**126.** The appointment of a judge advocate to act at any court-martial may be made by the Governor or by the convening officer. Appointment of judge advocates.

**127.** Any finding, sentence, determination or other thing required by this Act to be promulgated shall be promulgated either by being communicated to the accused or in such other manner as may be specified by regulations or as the confirming authority or reviewing authority, as the case may be, may direct. Promulgation.

Custody of proceedings of court-martial and right of accused to a copy thereof

128. (1) The record of the proceedings of a court-martial shall be kept in the custody of the Commander for not less than the prescribed period, being a period sufficient to ensure that the rights conferred by subsection (2) and subsection (3) are capable of being exercised.

(2) Subject to this section, a person tried by a court-martial is entitled to obtain from the Commander on demand at any time within the relevant period and on payment therefor at such rate as may be prescribed a copy of the record of the proceedings of the court.

(3) Where a person tried by court-martial dies within the relevant period, his personal representatives or any person who in the opinion of the Commander ought to be treated for the purposes of this subsection as his personal representative are, subject to the provisions of this section, entitled to obtain from the Commander on demand at any time within the period of twelve months from the death and on payment therefor at the prescribed rate a copy of the record of the proceedings of the court.

(4) If, on an application in pursuance of either subsection (2) or subsection (3) for a copy of the record of any proceedings, the Minister certifies that for reasons of security that the proceedings or any part thereof should not be disclosed, the applicant shall not be entitled to a copy of the proceedings or part to which the certificate relates.

(5) In this section the expression "the relevant period", in relation to any person tried by court-martial, means the period of five years beginning with the date of his acquittal or, where he was convicted, of the promulgation of the findings and sentence or, where a finding of guilty was not confirmed, of the promulgation of the withholding of confirmation; but where the proceedings relate to two or more charges and the person tried was acquitted on one or more of the charges and convicted on another or others, the relevant period shall be the period of five years beginning with the date of the promulgation of the finding or findings of guilty and the sentence thereon or of the withholding of confirmation of that finding or those findings.

(6) Any reference in this section to the record of the proceedings of a court-martial includes a reference to

the record of the proceedings with respect to the confirmation or revision of the findings and sentence of the court-martial.

129. No action lies in respect of anything done by any person in pursuance of a military sentence of imprisonment or detention if the doing thereof would have been lawful but for a defect in any warrant or other instrument made for the purposes of that sentence. Indemnity for prison officers, &c.

#### INTERPRETATION

130. (1) In this Part

Interpretation  
of Part IV.

- (a) "civil prison" means a prison in the Territory in which a person sentenced by a civil court to imprisonment can for the time being be confined;
- (b) "convening officer", in relation to a court-martial, means the officer convening that court-martial and includes his successor or any person for the time being exercising his or his successor's functions;
- (c) "military establishment" means a military prison or any other establishment under the control of the Minister where persons may be required to serve military sentences of imprisonment or detention, or a military establishment as defined in section 143 of the Imperial Act;
- (d) "military prison" means separate premises designated by the Minister for persons serving military sentences of imprisonment;
- (e) "prescribed" means prescribed by Rules of Procedure;
- (f) "prison" means a civil prison or a military prison.

(2) References in this part to a military sentence of imprisonment are references to a sentence of imprisonment passed by a court-martial.

(3) References in this part to a military sentence of detention are references to a sentence of detention passed by a court-martial or awarded by the offender's commanding officer.

(4) References in this Part to warrant officers do not include references to acting warrant officers.

(5) References in this Part to non-commissioned officers include references to acting non-commissioned officers and also to acting warrant officers.

Rules of  
Procedure.

**131.** (1) Subject to this section, the Minister may make rules (herein referred to as Rules of Procedure) with respect to the investigation and trial of, and awarding of punishment for, offences cognizable by court-martial, commanding officers and appropriate superior authorities and with respect to the confirmation and revision of findings and sentences of courts-martial.

(2) Without prejudice to the generality of subsection (1), Rules of Procedure may make provision with respect to all or any of the following matters :

- (a) the procedure to be observed in the bringing of charges before commanding officers and appropriate superior authorities;
- (b) the manner in which charges so brought are to be investigated, and the taking of evidence (whether orally or in writing, whether or not on oath and whether in full or in summary or abstract form) for the purpose of investigating or dealing summarily with such charges or otherwise as a preliminary to the trial thereof by court-martial, so however that the Rules make provision for the application of section 92 in any case where the accused requires that evidence shall be taken on oath;
- (c) the addition to, or substitution for, a charge which has been investigated of a new charge for an offence disclosed by evidence taken on the investigation and the treating of the investigation as the investigation of the new charge;
- (d) the convening and constitution of courts martial;
- (e) the sittings, adjournment and dissolution of courts-martial;
- (f) the procedure to be observed in trials by court-martial;
- (g) the representation of the accused at such trials;

- (h) procuring the attendance of witnesses before courts-martial and at the taking of evidence in pursuance of rules made under paragraph (b);
- (i) applying in relation to proceedings before commanding officers and appropriate superior authorities and otherwise in relation to proceedings prior to trial by court-martial all or any of the provisions of sections 98, 99, 100 and 101;
- (j) empowering a court-martial or the convening officer, in such cases and to such extent as may be prescribed, to amend a charge which is being tried by the court;
- (k) empowering a court-martial, where the particulars proved or admitted at the trial differ from those alleged in the charge, but are sufficient to support a finding of guilty of the like offence as that charged, to make a finding of guilty subject to exceptions or variations specified in the finding if it appears to the court that the difference is not so material as to have prejudiced the accused in his defence;
- (l) the forms of orders and other documents to be made for the purposes of this Part or the rules relating to the investigation or trial of, or award of punishment for, offences cognizable by courts-martial, commanding officers or appropriate superior authorities or to the confirmation and revision of the findings and sentences of courts-martial.

(3) Rules made by virtue of paragraph (j) of subsection (2) shall secure that the power to amend charges shall not be exercisable in circumstances substantially different from those in which indictments are amendable by a civil court in the Territory, or otherwise than subject to the like conditions, as nearly as circumstances admit, as those subject to which indictments are so amendable, and shall not be exercisable by a court-martial (otherwise than for the purpose only of correcting a mistake in the name or description of the accused or a clerical error or omission) unless there is a judge advocate present at the trial.

(4) Rules of Procedure may make provision as to the exercise by a judge advocate of his functions at a trial

by court-martial, and without prejudice to the generality of the foregoing provisions, may make provision—

- (a) as to the effect of advice or rulings given to the court by a judge advocate on questions of law;
- (b) for requiring or authorising the president of a court-martial, in such cases as may be specified in the Rules, to direct that questions of law shall be determined by a judge advocate in the absence of the president and other members of the court and any officers under instruction, and for applying to the judge advocate and his proceedings on any such determination such of the provisions of this Act relating to the court or its members and the proceedings thereof as may be specified in the Rules.

(5) In subsection (4) references to questions of law include references to questions of joinder of charges and as to the trial of persons jointly or separately.

(6) Rules of Procedure may make provision for determining the cases in which and the extent to which courts-martial may, in sentencing an accused for any offence of which he is convicted, at the request of the accused take into consideration other offences against this Act committed by him.

(7) Where Rules of Procedure make provision for the matter mentioned in subsection (6), they may also make provision for conferring on the court taking one or more offences into consideration, the power to direct the making of such deductions from the offender's pay as the court would have had power to direct if he had been found guilty of the offence or offences taken into consideration as well as of the offence of which he was in fact found guilty.

(8) Until such time as Rules of Procedure are made under this section, the matters with respect to which such Rules may be made shall be governed, with such modifications as shall be necessary for the purpose, by the Rules of Procedure made under sections 103, 104 and 105 of the Imperial Act.

**Imprisonment  
and Detention  
Rules.**

**132.** (1) The Minister may make rules (herein referred to as "Imprisonment and Detention Rules") with respect to all or any of the following matters :

- (a) the places in which and the establishments or forms of custody (whether military or not) in which persons may be required to serve the whole or any part of military sentences of imprisonment and detention passed on them;
- (b) the committal of persons under military sentences of imprisonment or detention to the appropriate establishment or form of custody, their removal from one establishment or form of custody to another and their release on the coming to an end of any term of imprisonment or detention;
- (c) the provision, classification, regulation and management of military establishments;
- (d) the classification, treatment, employment, discipline and control of persons serving military sentences of imprisonment or detention in military establishments or otherwise in military custody;
- (e) the temporary release on compassionate grounds of persons serving such sentences in such establishments or custody as aforesaid, the cases in which, periods for which and conditions subject to which they may be allowed out of any such establishment or custody and the remission of part of any such sentence for good conduct and industry;
- (f) the appointment, powers and duties of inspectors, visitors and governors, and of officers and other members of the staff, of military establishments.

(2) Until such time as Imprisonment and Detention Rules are made under this section, the matters with respect to which such rules may be made shall be governed, with such modifications as shall be necessary for the purpose, by the Imprisonment and Detention Rules made under sections 122 and 123 of the Imperial Act.

133. (1) The Minister may make rules (in this Act referred to as "Board of Inquiry Rules") with respect to the convening, constitution and procedure of boards of inquiry.

Board of Inquiry  
Rules.

(2) Without prejudice to the generality of subsection (1), the Board of Inquiry Rules may make provision with respect to all or any of the following matters:

- (a) the rules of evidence to be observed by boards of inquiry and the taking of evidence before such boards, so however that the rules shall provide for the taking of evidence on oath or affirmation except in circumstances such that if the evidence was being taken at a court-martial an oath could be dispensed with;
- (b) without prejudice to the provisions of section 124, the making in service books of records of findings of boards of inquiry in such cases as may be provided by the rules.

(3) Board of Inquiry Rules shall contain provision for securing that any witness or other person subject to service law who may be affected by the findings of a board of inquiry shall have an opportunity of being present, and represented, at the sittings of the board or such part thereof as may be specified by or under the rules.

Miscellaneous  
Rules.

**134.** The Minister may make rules with respect to all or any of the following matters:

- (a) the execution of sentences of death, including the manner and place where such executions are to be carried out and the custody, treatment and removal of persons under sentence of death;
- (b) field punishment;
- (c) any matter which by this Part of this Act is required or authorised to be prescribed or for which rules may be made;
- (d) such incidental and supplementary matters as appear requisite for any of the purposes set out in sections 131, 132 and 133 and in this section.

## PART V

### *Appeals from Courts-Martial*

Right of appeal.

**135.** Subject to this Part a person convicted by a court-martial may, with the leave of the Supreme Court, appeal to the Supreme Court against his conviction.

**136.** (1) The Supreme Court shall not grant leave to appeal except in pursuance of an application in that behalf made by or on behalf of the appellant, and lodged, within twenty-eight days of the date of the promulgation of the finding of the court-martial in respect of which the appeal is brought, with the Registrar of the Supreme Court, being an application in the prescribed form and specifying the grounds on which leave to appeal is sought and such other particulars, if any, as may be prescribed.

Application for  
leave to appeal.

(2) Rules of court may provide that, in such circumstances as may be specified in the rules, an application mentioned in subsection (1) which is lodged with such person, other than the Registrar, as is specified in the rules shall be treated, for the purposes of that subsection, as having been lodged with the Registrar.

(3) The Supreme Court may extend the period within which an application for leave to appeal shall be lodged, whether that period has expired or not.

(4) In considering whether or not to give leave to appeal, the Supreme Court shall have regard to any expression of opinion made by the judge advocate if any, who acted at the court-martial that the case is a fit one for appeal, and, if any such expression is made, may without more give leave to appeal.

(5) The Supreme Court may, where it dismisses an application for leave to appeal if it considers the application to have been frivolous or vexatious, order that any sentence passed upon the applicant in the proceedings from which it was sought to bring the appeal shall begin to run from the day on which the Court dismiss the application.

**137.** (1) Subject to section 138, on an appeal under this Part, the Supreme Court shall allow the appeal if it thinks that the finding of the court-martial is unreasonable or cannot be supported having regard to the evidence or involves a wrong decision on a question of law or that, on any ground, there was a miscarriage of justice, and in any other case shall dismiss the appeal; but the Court may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

Determination of  
appeals in  
ordinary cases.

(2) If the Supreme Court allows an appeal under this Part, it shall quash the conviction.

Powers of the  
Supreme Court  
in special cases.

138. (1) If it appears to the Supreme Court that an appellant, though not properly convicted on some charge preferred against him before the court-martial by which he was tried, was properly convicted on some other charge so preferred, then, if the sentence passed by the court-martial on the appellant was not one which could lawfully be passed by the court-martial for the offence of which he was convicted on the other charge, the Court shall pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as it thinks proper, being a sentence which might lawfully be passed in respect of the charge on which the appellant was properly convicted, but not being a sentence of greater severity.

(2) Where an appellant has been convicted of an offence and the court-martial by which he was tried could lawfully have found him guilty of some other offence, and it appears to the Supreme Court that the court-martial must have been satisfied of facts, which proved him guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the other offence and pass on the appellant, in substitution for the sentence passed on him by court-martial, such sentence as they think proper, being a sentence which could lawfully have been passed for that other offence but not being a sentence of greater severity.

(3) When

- (a) an appellant has been convicted of an offence committed under circumstances involving the higher of two degrees of punishment, and it appears to the Supreme Court that the court-martial by which he was tried ought to have found him guilty of the offence as being committed under circumstances involving the lower degree of punishment; or
- (b) an appellant has been convicted of an offence and it appears to the Supreme Court that the court-martial by which he was tried ought to have found him guilty of the offence subject to exceptions or variations,

the Court may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the offence as being committed under circumstances involving the lower degree of punishment or, as the case may be, guilty of the offence subject to exceptions or variations and pass on the appellant, in substitution for the sentence passed on him by court-martial, such sentence as it thinks proper, being a sentence which could lawfully have been passed for the offence specified or involved in the substituted finding, but not being a sentence of greater severity.

(4) If, on an appeal, it appears to the Supreme Court that, although the appellant was guilty of the act charged against him, he was insane at the time the act was done, so as not to be responsible according to law for his actions, the Court may quash the sentence passed at the trial and order the appellant to be kept in custody in accordance with section 111, in like manner as on a special finding of insanity by the court-martial by which the appellant was convicted.

(5) The term of any sentence passed by the Supreme Court under this section, unless the Court otherwise direct, begins to run from the time from which it would have begun to run if it had been passed in the proceedings from which the appeal is brought, and a sentence passed by the Supreme Court shall be deemed for the purposes of this Act to be a sentence passed by the court-martial being a sentence that has been confirmed.

**139.** If, in the case of an appeal under this Part, the Supreme Court, upon an application in that behalf made to the Court within a period of fourteen days from the date when the decision of the Court was given, is of opinion that the decision of the Court involves a point of law of exceptional public importance and that it is desirable in the public interest that a further appeal should be brought, the Court may grant leave to the appellant for the respondent to appeal to Her Majesty in Council from the decision of the Court; but, subject to this section, the determination by the Supreme Court of any appeal or other matter which it has power to determine shall be final and conclusive for all purposes, and no appeal shall lie from the Court to any other court.

Appeals to  
Privy Council.

Supplementary powers of the Supreme Court.  
Ch. 3. No. 2.

**140.** For the purposes of this Part, the Supreme Court shall have and may exercise all the powers conferred on it by sections 11 and 12 of the Criminal Appeal Ordinance and by the rules made thereunder relating to

- (a) legal assistance to an appellant;
- (b) the obtaining and production of documents; and
- (c) the receiving and examination of further evidence.

Proceedings to be heard in absence of appellants.

**141.** An appellant is not entitled to be present at the hearing of an appeal to the Supreme Court under this Part or at any proceedings preliminary or incidental to such an appeal, except where rules of court provide that he shall have the right to be present or the Court gives him leave to be present, and accordingly any power of the Supreme Court under this Part to pass a sentence may be exercised in the absence of the appellant.

Defence of appeals.

**142.** The Attorney General shall undertake the defence of an appeal against conviction by a court-martial.

Right of appellant to present his case in writing.

**143.** An appellant may if he so desires, instead of presenting his case orally, present it in writing in the prescribed form.

Suspension of death sentences.

**144.** (1) Where a conviction by court-martial involves sentence of death

- (a) the sentence shall not in any case be executed until the expiration of the period within which an application for leave to appeal to the Supreme Court against the conviction shall be lodged; and
- (b) if such an application is duly lodged, the sentence shall not be executed until either the application is finally refused or is withdrawn or the appeal is determined or abandoned; and
- (c) if leave to appeal is granted and the appeal is dismissed, the sentence shall not be executed until the expiration of the period within which an application may be made under section 139 for leave to appeal to Her Majesty in Council; and

(d) if an application under the said section 139 is duly made, the sentence shall not be executed until leave is refused or the application is withdrawn or the further appeal that lies to Her Majesty in Council by virtue of the grant of leave is determined or abandoned.

(2) Any appeal to the Supreme Court against conviction by a court-martial involving sentence of death, any application for leave to appeal to the Supreme Court against any such conviction and any appeal to Her Majesty in Council against a decision of the Court on an appeal thereto against any such conviction shall be heard and determined with as much expedition as practicable.

**145.** Where the conviction of a person by a court-martial for an offence has been quashed under this Part, he is not liable to be tried again for that offence by a court-martial or by any other court. Person not to be tried again where conviction quashed

**146.** Imprisonment and Detention Rules may provide in what manner an appellant, when in custody, is to be taken to, kept in custody at, and brought back from any place at which he is entitled to be present for the purposes of this Part or any place to which the Supreme Court or a judge thereof may order him to be taken for the purpose of any proceedings of the Supreme Court. Removal of prisoners for purposes of proceedings under Part V.

**147.** In the case of every appeal, or application for leave to appeal, under this Part to the Supreme Court against a conviction by court-martial, the Commander shall furnish to the Registrar of the Supreme Court in accordance with rules of court, the proceedings of the court-martial (including any proceedings with respect to the revision of the finding or sentence of the court-martial in pursuance of subsection (1) of section 104), the proceedings with respect to the confirmation of the finding and sentence of the court-martial and any petition presented by the person convicted. Furnishing, on appeal, of documents relating to trial.

**148.** (1) The Registrar of the Supreme Court shall take all necessary steps for obtaining the determination of an appeal or application under this Part and shall obtain and lay before the Supreme Court in proper form all documents, exhibits and other things relating to the proceedings Duties of Registrar of the Supreme Court with respect to appeals, &c.

in the court-martial before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.

(2) The Registrar of the Supreme Court shall furnish the necessary forms and instructions relating to applications for leave to appeal under this Part to any person who demands them, to persons in charge of places where persons sentenced by court-martial may lawfully be confined for the purpose of serving their sentences and to such other persons as he thinks fit; and every person in charge of such a place shall cause the forms and instructions to be placed at the disposal of persons confined in that place who desire to make application for leave to appeal under this Part.

Saving of

Governor's powers.

**149.** Nothing in this Part shall affect the exercise by the Governor of the powers herein contained to quash a conviction by a court-martial, so far as regards the exercise thereof at a time before the receipt by the Registrar of the Supreme Court of an application for leave to appeal to the Supreme Court against the conviction and nothing in this Part shall affect the exercise by the Governor of the prerogative of mercy.

Composition of  
Court.

**150.** Upon the hearing of any appeal from a court-martial the Supreme Court shall consist of at least three judges.

Exercise of certain  
powers of Supreme  
Court by a judge.

**151.** Notwithstanding the provisions of section 150, a judge of the Supreme Court may—

- (a) give leave to appeal; or
- (b) subject to the provisions of subsection (2) of section 136, extend the period within which an application for leave to appeal must be lodged; or
- (c) allow an appellant to be present at any proceedings under this Part,

but if the judge refuses an application on the part of an appellant to exercise in his favour any of the powers hereinbefore mentioned, the appellant, upon making a requisition in that behalf, within the prescribed period and in the prescribed form and manner, shall be entitled to have the application determined in accordance with section 150.

152. (1) Subject to this Part, any rules of court in force <sup>General provisions.</sup> relating to the hearing of criminal appeals by the Supreme Court apply to the hearing and determination of an appeal by the Court under this Part.

(2) Where under this Part anything is required or authorised to be prescribed it shall be prescribed by rules of court.

## PART VI

### FORFEITURES AND DEDUCTIONS

153. (1) No forfeiture of the pay of an officer or other rank shall be imposed unless authorised by this Act, other service law or some other enactment; and no deduction from such pay shall be made unless so authorised by regulations. <sup>Forfeitures and deductions: general provisions.</sup>

(2) Regulations shall not authorise the making of any penal deduction, that is to say, a deduction to be made by reason of the commission of any offence or other wrongful act or in consequence of any negligence.

(3) The provisions of subsection (1) or subsection (2) shall not be construed so as to prevent the making of regulations providing for the imposition of any forfeiture authorised by this Act or the making of any deduction so authorised, or for the time at which and manner in which sums may be deducted from pay to give effect to authorised deductions or the manner in which amounts may be so deducted in order to recover any fine imposed in pursuance of this Act, or as to the appropriation of any such sum or amount when deducted, or of providing for the determination of questions relating to forfeitures or deductions.

(4) Notwithstanding any deduction from the pay of an officer or other rank he shall, subject to any forfeiture, remain in receipt of pay at not less than such minimum rate as may be prescribed.

(5) Notwithstanding that forfeiture of pay of an officer or other rank for any period has been ordered in pursuance of this Act, he shall remain in receipt of pay at such a minimum rate as may be prescribed, but the amount received for that period may be recovered from him by deduction from pay.

(6) Any amount authorised to be deducted from the pay of an officer or other rank may be deducted from any balance, whether or not representing pay, which may be due to him as an officer or other rank, and references in this Act to the making of deductions from pay shall be construed accordingly.

Forfeiture of pay for absence from duty. **154.** (1) The pay of an officer or other rank may be forfeited

- (a) for any day of absence in such circumstances as to constitute an offence under section 39 or section 40, or, if the Commander or an officer authorised by regulations so directs, of other absence without leave;
- (b) for any day of imprisonment, detention or field punishment awarded under service law by a court-martial or commanding officer, or of imprisonment or detention of any description to which he is liable in consequence of an order or sentence of a civil court;
- (c) where he is found guilty, whether by court-martial under service law, an appropriate superior authority or his commanding officer, of an offence under service law for any day whether before or after he is found guilty on which he is in hospital on account of sickness or injury certified by the proper medical officer to have been occasioned by the offence.

(2) The pay of an officer or other rank may be forfeited for any day of absence by reason of his having been made a prisoner of war, if the Commander or an officer authorised by regulations for that purpose is satisfied

- (a) that he was made a prisoner of war through disobedience of orders or wilful neglect of his duty; or
- (b) that having been made a prisoner of war he failed to take any reasonable steps available to him to rejoin the Force; or
- (c) that having been made a prisoner of war he served with or aided the enemy in the prosecution of hostilities or measures calculated to influence morale or in any other manner whatsoever not authorised by international usage.

but, except as provided in this subsection, nothing in paragraph (a) of subsection (1) shall apply to absence by reason of having been made a prisoner of war.

(3) Regulations may make provision as to the computation of time for the purposes of this section and in particular as to the counting or disregarding of parts of days.

155. Where an officer or other rank charged with an offence before a civil court, is sentenced or ordered by the court to pay any fine, penalty, damages, compensation or costs, and the whole or part thereof is met by a payment made by or on behalf of any military authority, the amount of the payment may be deducted from his pay.

Deductions for payment of civil penalties.

156. (1) Without prejudice to the provisions of this Act relating to the imposition of stoppages as a punishment, this section has effect where, after such investigation as may be prescribed by regulations, it appears to the Minister or an officer authorised by regulations for that purpose that any loss of, or damage to, public or service property has been occasioned by any wrongful act or negligence of an officer or soldier (hereinafter referred to as "the person responsible").

Compensation for loss occasioned by wrongful act or negligence.

(2) The Minister or such authorised officer, as the case may be, may order the person responsible to pay as or towards compensation for the loss or damage, such sum as may be specified in the order, and any such sum, in so far as not otherwise paid by the person responsible, may be deducted from his pay.

(3) No order shall be made under subsection (2) if, in proceedings before a court-martial under service law, an appropriate superior authority or a commanding officer, the person responsible

(a) has been acquitted in circumstances involving a finding that he was not guilty of the wrongful act or negligence in question; or

(b) has been awarded stoppages in respect of the same loss or damage,

but save as aforesaid, the fact that such proceedings have been brought in respect of the wrongful act or negligence in question shall not prevent the making of an order or deduction under subsection (2).

Deductions for  
barrack damage.

**157.** (1) When damage occurs to premises in which one or more units or parts of such units of the Force are quartered or billeted, or any fixtures, furniture or effects in or belonging to such premises are damaged or lost, and it appears on investigation in accordance with the provisions or regulations that the damage or loss was occasioned by the wrongful act or negligence of persons belonging to the units or parts of units in occupation thereof, but that the said persons cannot be identified, every person belonging to any of such unit or parts of units of the Force may be required to contribute towards compensation for the damage or loss such amount as may in accordance with regulations be determined to be just, and the amount may be deducted from his pay.

(2) The provisions of subsection (1) extend to ships, trains, motor vehicles and aircraft in which units or parts of units of the Force are being transported; and reference to premises, quartering and occupation shall be construed accordingly.

Remission of  
forfeitures and  
deductions.

**158.** The Minister or such authority as may be provided for by regulations may remit a forfeiture or deduction imposed under the provisions of sections 154, 155, 156, or section 157 or under regulations.

Enforcement of  
maintenance and  
affiliation orders  
by deduction  
from pay.

**159.** (1) Where a court has made an order against any person (in this section referred to as "the defendant") for the payment of any periodical or other sums specified in the order for or in respect of

- (a) the maintenance of his wife or child or of any illegitimate child of whom he is the putative father; or
- (b) any costs incurred in obtaining the order; or
- (c) any costs incurred in proceedings on appeal against, or for the variation, revocation or revival of, any such order,

and the defendant is an officer or other rank, then (whether or not he was a member of the Force when the order was made) the Commander or an officer authorised by him may order such sum to be deducted from the pay of the defendant and appropriated in or towards satisfaction of the payment due under the order of the court as the Commander or officer may think fit.

(2) Where to the knowledge of the court making an order described in subsection (1), or an order varying, revoking or reviving such order, the defendant is an officer or other rank, the court shall send a copy of the order to the Commander.

(3) Where an order described in subsection (1) has been made by a court in Her Majesty's dominions outside the Territory, and the Commander or such officer as may be authorised by him, is satisfied that the defendant has had a reasonable opportunity of appearing in person, or has appeared by a duly authorised legal representative, to defend the case before the court by which the order was made, the Commander or such officer has the like power under subsection (1) as if the order had been made by such a court as is mentioned in that subsection; but this subsection does not apply to an order for payment of a sum for or in respect of the maintenance of an illegitimate child or for the payment of costs incurred in obtaining such an order or in proceedings on appeal against, or for the variation, revocation or revival of, such an order.

(4) The Commander or such officer as has been authorised by him may by order vary or revoke any order previously made under this section, and may treat any order made under this section as being in suspense at any time while the person against whom the order was made is absent as mentioned in paragraph (a) of subsection (1) of section 154.

(5) In this section

- (a) references to an order made by a court in this Territory include references to an order registered in or confirmed by such a court under the provisions of any law which makes provision for the enforcement in any country of maintenance orders made outside that country;
- (b) references to a wife or child include, in relation to an order made in proceedings in connection with the dissolution or annulment of a marriage, references to a person who would have been the wife or child of the defendant had the marriage subsisted.

(6) For the purposes of subsection (5) the expression "maintenance order" means an order other than an order of affiliation for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made,

and the expression "dependants" means such persons as that person is, according to the law in force in that part of Her Majesty's dominions in which the maintenance order was made, liable to maintain.

Deductions from pay for maintenance of wife or child.

**160.** (1) Where the Commander or an officer authorised by him is satisfied that an officer or other rank is neglecting without reasonable cause to maintain his wife or any child of his under the age of sixteen, the Commander or officer may order such sum to be deducted from his pay and appropriated towards the maintenance of his wife or child as the Commander or officer thinks fit.

(2) On an application made to the Commander or an officer authorised by him for an order under subsection (1) the Commander or officer, if satisfied that a *prima facie* case has been made out for the making of such an order, may make an interim order for such deduction and appropriation as is mentioned in the said subsection (1) to take effect pending the further examination of the case.

(3) Where an order is in force under subsection (1) or subsection (3) of section 159 for the making of deductions in favour of any person from the pay of an officer, or other rank, no deductions from his pay in favour of the same person shall be ordered under subsection (1) or (2) of this section unless the officer or other rank is in a place where process cannot be served on him in connection with proceedings for the variations of the order of the court in consequence of which the order under section 159 was made.

(4) The Commander or an officer authorised by him may by order vary or revoke any order previously made under this section, and may treat any order made under this section as being in suspense at any time while the person against whom the order was made is absent as mentioned in paragraph (a) of subsection (1) of section 154.

(5) The power to make an order under this section for the deduction of any sum and its appropriation towards the maintenance of a child includes power

(a) subject to the provisions of subsection (3), to make such an order after the child has attained the age of sixteen, if an order in favour of the child is in force under subsection (1) or subsection (3) of section 159.

- (b) to make such an order after the child has attained the age of sixteen if
- (i) such an order of the court as is mentioned in subsection (1) of section 159 was in force in favour of the child at the time when the child attained that age, and
  - (ii) the person from whose pay the deductions are ordered is in such a place as is mentioned in subsection (3); and
  - (iii) the child is for the time being engaged in a course of education or training; or
- (c) to continue such an order from time to time after the child has attained the age of sixteen, if the child is for the time being engaged in a course of education or training;

but no order so made or continued shall remain in force after the child attains the age of twenty-one or shall, unless continued under paragraph (c), remain in force for more than two years.

- 161.** (1) The sums deducted under sections 159 and 160 shall not together exceed
- (a) in the case of an officer, three-sevenths of his pay;
  - (b) in the case of a warrant officer or a non-commissioned officer not below the rank of sergeant or corresponding rank, two-thirds of his pay;
  - (c) in the case of a man or a non-commissioned officer below the rank of sergeant or corresponding rank, three-fourths of his pay.

Limit of deductions under sections 159 and 160 and effect on forfeiture.

(2) Where any deductions have been ordered under either section 159 or section 160 from a pay of an officer or an other rank and, whether before or after the deductions have been ordered, he incurs a forfeiture of pay by or in consequence of the finding or sentence of a court-martial or the finding or award of an appropriate superior authority or a commanding officer, the order applies only to so much of his pay as remains after the deductions have been made.

(3) For the purposes of paragraphs (b) and (c) of subsection (1) a person having acting rank shall be treated as of that rank.

Service of process  
in maintenance  
proceedings.

**162.** (1) Any process to be served on an officer or other rank (in this section referred to as "the defendant") in connection with proceedings for the obtaining, variation, revocation or revival of an order described in paragraph (a) of subsection (1) of section 159, shall be deemed to be duly served on him if served either on him or his commanding officer, and may, without prejudice to any other method of service, be so served by registered post.

(2) Where the process mentioned in subsection (1) appoints a hearing at a place more than twenty miles from the place where the defendant is then stationed and his appearance in person will be required at the hearing, service of the process is not valid unless there is left with it, in the hands of the person on whom it is served, a sum of money sufficient to enable the defendant to attend the hearing and return.

(3) Where the process mentioned in subsection (1) is served in the Territory and the defendant is required to appear in person at the hearing, then if his commanding officer certifies to the court by which process was issued that the defendant is under orders for active service out of the Territory and that in the commanding officer's opinion it is not possible for the defendant to attend the hearing and return in time to embark for that service, the service of the process shall be deemed not to have been effected.

## PART VII

### BILLETING AND REQUISITION OF VEHICLES

#### *Billeting*

Billeting  
requisitions.

**163.** At any time when this section is in operation, an officer of the rank of major or above commanding any part of the Force may issue a billeting requisition requiring the Commissioner of Police to provide billets at such places for such numbers of the Force, and, if the requisition so provides, for such number of vehicles in use for the purpose of the Force, being vehicles of any class specified in the requisition, as may be so specified.

164. (1) Billets, other than for vehicles, may be provided in pursuance of a billeting requisition. Premises in which the billets may be provided.

(a) in any hotel (whether licensed or not) or in any other premises occupied for the purposes of a business consisting of or including the provision of sleeping accommodation for reward;

(b) in any building not falling within paragraph (a) being a building to which the public habitually have access whether on payment or otherwise or which is wholly or partly provided or maintained out of the funds of any local authority;

(c) in any dwelling, out-house, warehouse, barn or stables;

but not in any other premises.

(2) Billets for vehicles may be provided in the manner set forth in subsection (1) in any building or on any land.

165. (1) Where a billeting requisition has been produced to the Commissioner of Police, he shall, on the demand of the officer commanding any portion of the Force, or on the demand of an officer or other rank authorised in writing by such an officer commanding, billet on the occupier of premises falling within section 164, being premises at such place in the Territory or part thereof as may be specified by the officer or other rank by whom the demand is made, such number of persons or vehicles as may be required by the officer or other rank by whom the demand is made, not exceeding the number specified in the requisition. Provision of billets.

(2) The Commissioner of Police shall exercise his functions under this section in such manner as in his opinion will cause least hardship to persons on whom billeting may take place.

(3) The Commissioner of Police may to such extent and subject to such restrictions as he thinks proper authorise any police officer not below the rank of assistant superintendent, to exercise his functions on his behalf, and subsections (1) and (2) shall apply accordingly.

Accommodation  
to be provided  
and payment  
therefor.

166. (1) Where persons are billeted in pursuance of a billeting requisition, the occupier of the premises on which they are billeted shall furnish such accommodation (including meals) as the officer or other rank demanding the billets may require, not exceeding such accommodation as may be prescribed by regulations.

(2) Where vehicles are billeted in pursuance of a billeting requisition, the occupier of the premises shall furnish standing room for the vehicles.

(3) Where persons or vehicles have been billeted in pursuance of a billeting requisition they may continue to be billeted, so long as section 163 continues in operation, for such period as may be required, and the allotment of billets among the persons or vehicles in question may be varied from time to time.

(4) The occupier on whose premises any person or vehicle is billeted is entitled to receive for the billeting such payment as may be prescribed by regulations but no payment shall be required in respect of vehicles billeted otherwise than in a building unless the land on which they are billeted

(a) has its surface made up for the passage or parking of vehicles, and

(b) is not land where vehicles are normally allowed to stand free of charge irrespective of the person by whom they are owned or driven.

(5) Subject to the provisions of subsection (6), payment for billeting

(a) shall be made before the persons billeted finally leave, or the vehicles are finally removed from, the premises where they are billeted; and

(b) where the billeting continues for more than seven days, shall be made at least once in every seven days.

(6) If for any reason payment for billeting cannot be made or fully made, as required by paragraph (a) of subsection (5), there shall be made up for the occupier an account, in such form as may be prescribed, of the amount due to him; and

(a) on presentation of the account, the Accountant General shall pay to the occupier the amounts stated in the account to be due;

(b) any sums paid by the Accountant General under paragraph (a) shall be recoverable by him from the public funds of the Territory.

(7) In relation to premises of which there is no occupier this section applies as if the person entitled to possession thereof were the occupier thereof.

167. (1) A person who

(a) is aggrieved by having an undue number of persons billeted upon him in pursuance of a billeting requisition, or

(b) claims that by reason of special circumstances he should be exempted from having persons so billeted on him, either generally or on a particular occasion,

may apply to such person or persons as shall be appointed by the Minister for the purposes of this section.

(2) On any application on the grounds mentioned in paragraph (b) of subsection (1) the person or persons to whom the application is made may grant such exemption as may seem just or may dismiss the application.

(3) An application under this section shall not affect billeting pending the determination of the application.

168. (1) Where any damage is caused to any premises by the billeting of persons or vehicles in pursuance of a billeting requisition, the occupier of the premises, or if there is no occupier, the person entitled to possession thereof, may recover from the Government compensation of an amount equal to the depreciation caused by the damage in the value of the premises.

(2) Where a person other than the recipient of compensation under subsection (1) has any interest in the premises, being an interest the value of which is depreciated by the damage, he shall be entitled to recover from the recipient such part of the compensation as may be just.

169. A person who

(a) refuses to receive any person billeted upon him in pursuance of a billeting requisition or without reasonable excuse fails to furnish him with the accommodation properly required for him,

or

Appeals against billeting.

Compensation for damage.

Refusal to receive persons billeted, &c.

- (b) gives or agrees to give any person billeted upon him in pursuance of a billeting requisition any money or reward in lieu of receiving any person or vehicle or furnishing accommodation properly required for him, or
- (c) obstructs the billeting in his building or on his land of any vehicle,

is liable on summary conviction to a fine of two hundred and fifty dollars, or to imprisonment for three months, or to both such fine and imprisonment.

Application to  
civilians employed  
with the Force.

**170.** Sections 163 to 169 (inclusive) apply in relation to persons of such descriptions as may be prescribed who are employed with the Forces, but are not entitled under those sections to be billeted, as they apply in relation to members of the Force.

#### REQUISITIONING OF VEHICLES

Requisitioning  
orders.

**171.** (1) At any time when this section is in operation any officer of the rank of major or above commanding any unit of the Force in the Territory may issue a requisitioning order authorising the requisitioning, from among vehicles in the Territory or part thereof specified in the order, of such vehicles, or such number of vehicles of such descriptions, as may be specified in the order.

(2) The purposes for which an order under this section may authorise vehicles to be requisitioned shall be such purposes for meeting the needs of any unit of the Force as may be specified in the order.

Provision of  
vehicles.

**172.** (1) A requisitioning order may be issued to the officer commanding any portion of the Force, and that officer, or an officer or other rank authorised by him in writing may give directions for the provision

- (a) insofar as the requisitioning order authorises the requisitioning of particular vehicles, of all or any of those vehicles,
- (b) insofar as the order authorises the requisitioning of vehicles of a specified description, of the number of vehicles of that description specified in the order or any lesser number of such vehicles.

(2) A direction under subsection (1) given as respects any vehicle may be either

- (a) a direction to the person having possession thereof to furnish it immediately at the place where it is, or
- (b) a direction given to the said person to furnish it at such place within fifty miles from the premises of the said person and at such time as may be specified by the officer or soldier by whom the direction is given;

but no direction shall be given under paragraph (b) as respects a vehicle which is neither mechanically-propelled nor a trailer normally drawn by a mechanically-propelled vehicle.

(3) If the officer to whom the requisitioning order is issued, or an officer or other rank authorised by him in writing, is satisfied that a person has refused or neglected to furnish a vehicle in accordance with a direction under any of the provisions of subsection (1), or has reasonable ground for believing that it is not practicable without undue delay to give a direction to the said person, he may take, or authorise an officer or other rank to take, possession of the vehicle; and where possession is taken of a vehicle in pursuance of this subsection, this Part with the necessary modifications applies as if the vehicle had been furnished by the person having possession of the vehicle in accordance with a direction to furnish it immediately at the place where it is, and, in particular, payment shall be made therefor as if it had been so furnished.

(4) The Commissioner of Police shall, on a request to that effect made by or on behalf of the officer to whom a requisitioning order is issued, give instructions for securing that so far as practicable constables will be available, if required, for accompanying officers or other ranks requisitioning vehicles in pursuance of the order.

**173.** (1) Subject to this section, where a vehicle has been furnished in pursuance of a requisitioning order it may be retained, so long as section 171 is in operation, for any period for which it is required for the purpose specified in the order or for any other purpose connected with the needs of any unit of the Force. Period for which vehicle to be furnished.

(2) During such time as the reserve is called out on permanent service, then insofar as a requisitioning order so provides, the person by whom any vehicle is to be furnished may be required to furnish it for the purposes of its being purchased on behalf of the Government.

Payment for  
vehicle furnished.

174. (1) A person by whom a vehicle is furnished in pursuance of a requisitioning order, and is so furnished otherwise than for the purpose of being purchased, is entitled to be paid

- (a) a sum for the use of the vehicle calculated by reference to the period for which possession of the vehicle is retained, at the rate of payment commonly recognised or generally prevailing in the Territory at the time at which the vehicle is furnished, or, in the default of such a rate, at such rate as may be just,
- (b) a sum equal to the cost of making good any damage to the vehicle not being damage resulting in a total loss thereof or damage attributable to fair wear and tear, which may have occurred during the period for which possession of the vehicle is retained and has not been made good during that period by a person acting on behalf of the Government,
- (c) if during the said period, a total loss of the vehicle occurs a sum equal to the value of the vehicle immediately before the occurrence of the damage which caused the loss.

In paragraph (b) and in the Third Schedule references to fair wear and tear shall be construed as references to such fair wear and tear as might have been expected to occur but for the fact that the vehicle was requisitioned.

(2) The person by whom a vehicle is furnished in pursuance of a requisitioning order for the purpose of being purchased is entitled to be paid the value of the vehicle at the time at which it is furnished.

(3) Where a vehicle is furnished in pursuance of a direction under paragraph (b) of subsection (2) of section 172, then

- (a) for the purposes of paragraphs (a) and (b) of subsection (1) of this section (if that subsection applies) the period for which possession of the vehicle is retained shall be deemed to begin at the time when the direction is given, and for the purposes of subsection (2) of this section (if that subsection applies) the vehicle shall be deemed to have been furnished at that time;

(b) in addition to the payment provided for by subsection (1) or subsection (2) of this section, the person by whom the vehicle is furnished is entitled to be paid the amount of any expenditure reasonably incurred by him in complying with the direction.

(4) Where a direction to furnish a vehicle is given under paragraph (b) of subsection (2) of section 172, and after giving of the direction any damage occurs to the vehicle (whether or not resulting in a total loss thereof), then if the damage prevents the furnishing of the vehicle in pursuance of the requisitioning order, subsections (1), (2) and (3) of this section apply as if the vehicle had been furnished, and (notwithstanding that it may have been required to be furnished for the purpose of being purchased) had been furnished otherwise than for that purpose, subject however to the following modifications, that is to say

(a) paragraphs (a), (b) and (c) of subsection (1) have effect as if for the period therein mentioned there were substituted the period beginning with the giving of the direction and ending immediately after the occurrence of the damage.

(b) paragraph (b) of subsection (3) have effect as if for the words "in complying with" there were substituted the words "by reason of anything done for the purpose of complying with".

(5) Where a person (in this section referred to as "a person interested") other than the person by whom a vehicle is required to be furnished has an interest in the vehicle,

(a) the person by whom the vehicle is required to be furnished shall notify any person known to him to be a person interested that the vehicle has been requisitioned.

(b) a person interested is entitled to recover from the person by whom the vehicle was required to be furnished such part (if any) of the payment received by him for the vehicle as may be just.

(6) The Third Schedule has effect as to the time for the making of payments under this section as to the determination of disputes arising thereunder.

(7) Where, during the period for which possession of a vehicle is retained, a total loss of the vehicle occurs, then,

- (a) for the purposes of paragraphs (a) and (b) of subsection (1) and of the Third Schedule the said period shall be deemed to have come to an end immediately after the occurrence of the loss, and
- (b) no claim shall be made for the return of the vehicle (if it still exists) or for payment in respect thereof other than such as is provided for by subsection (1).

Avoidance or hardship in requisitioning of vehicles.

**175.** In deciding which of alternate vehicles is to be specified in an order under section 171, or is to be the subject of a direction under paragraph (b) of subsection (1) of section 172 thereof, the officer or other rank by whom the order is issued or direction given shall act in such manner as in his opinion will cause the least hardship.

Record and inspection of mechanically-propelled vehicles.

**176.** The Governor may by regulations require persons having in their possession mechanically-propelled vehicles, or trailers normally drawn by mechanically-propelled vehicles, if required so to do by such authority or person as may be specified in the regulations,

- (a) to furnish to such authority or person as may be so specified a return containing such particulars as to the vehicles as may be required by or under the regulations, and
- (b) to afford all reasonable facilities for enabling any such vehicles in his possession to be inspected and examined, at such times as may be specified by or under the regulations, by such authority or person as may be so specified.

Enforcement of provisions as to requisitioning.

**177.** (1) A person who

- (a) fails to furnish any vehicle which he is directed to furnish in pursuance of a requisitioning order, or fails to furnish any such vehicle at the time and place at which he is directed to furnish it; or
- (b) fails to comply with any regulations made under section 176; or

- (c) obstructs any officer or other person in the exercise of his functions under this Part in relation to the inspection or requisitioning vehicles.

is guilty of an offence and is liable on summary conviction to a fine of two hundred and fifty dollars, or to imprisonment for three months, or to both such fine and such imprisonment.

(2) Without prejudice to any penalty under subsection (1), if any person is obstructed in the exercise of powers of inspection conferred on him by regulations made under section 176, a justice of the peace may, if satisfied by information on oath that the person has been so obstructed, issue a search warrant authorising a constable named therein, accompanied by the said person, to enter the premises in respect of which the obstruction took place at any time between six o'clock in the morning and nine o'clock in the evening to inspect any vehicles which may be found therein.

178. (1) Subject to this section, the provisions of sections 171 to 177 and the Third Schedule, except such of those provisions as relate only to mechanically-propelled vehicles and trailers normally drawn thereby apply to horses, mules, donkeys, and oxen, food, forage and stores as they apply to vehicles.

Application to  
cattle, food,  
forage and stores.

(2) Where stores are required for, and can be conveyed with, a vehicle with respect to which a direction is given under paragraph (b) of subsection (2) of section 172, such a direction may be given as well in relation to the stores as in relation to the vehicle, and, except subsection (4) of section 174, sections 171 to 177 and the Third Schedule apply accordingly; but if after the giving of the direction the furnishing of the stores is prevented by damage to them or to the vehicle such payment (if any) shall be made in respect of the stores as may be just in all the circumstances.

(3) Notwithstanding anything contained in section 173, food, forage or stores to be furnished in pursuance of a requisitioning order at any time may be required to be furnished for purchase on behalf of the Crown.

(4) Section 176 applies in relation to horses, mules, donkeys, and oxen as it applies in relation to mechanically-propelled vehicles.

- (5) In this section
- (a) the expression "oxen" means oxen used, or kept principally, for draught purposes;
- (b) the expression "stores" means any chattel, other than a horse, mule, donkey or ox, a vehicle, food or forage, being a chattel required for or for use in connection with
- (i) persons or vehicles billeted or to be billeted in pursuance of a billeting requisition or otherwise temporarily accommodated or to be so accommodated, or
- (ii) vehicles, horses, mules, donkey or oxen furnished or to be furnished in pursuance of a requisitioning order.

Liability of Crown for damage by vehicles being delivered for requisitioning.

**179.** The person using a vehicle for the purpose of its being furnished in pursuance of a direction under paragraph (b) or subsection (2) of section 172 shall be deemed, as respects any claim in respect of injury or damage to any other person or property, to be so using the vehicle as a servant of the Crown, and any law which prohibits or renders unlawful the use on any road of a motor vehicle unless there is in force in relation to the user of the vehicle a policy of insurance or security in respect of third-party risk, does not apply to the use of the vehicle for the said purpose.

Bringing into operation of sections 163 and 171.

**180.** (1) Whenever it appears to the Governor that the public interest so requires, he may by order direct that section 163 or section 171, or both those sections, shall come into operation either generally or as respects such area in the Territory as may be specified in the order, and that section or those sections, as the case may be, shall thereupon come into operation and remain in operation so long as the order has effect.

(2) An order under this section shall, subject to any revocation or variation thereof, continue to have effect for the period of one month from the making thereof; but where, before the expiration of this period it is resolved by both chambers of the Legislature that the public interest requires the operation of the order should be extended for such further period as may be specified in the resolution, it shall be extended accordingly.

**181.** (1) Notwithstanding the provision of any law in force in the Territory, the Governor may from time to time by order requisition the use of any area of land in the Territory which in the opinion of the Commander is necessary and suitable for the purpose of the training, exercise or manoeuvres of the Force. <sup>Requisition of land for training, &c.</sup>

(2) An order made under this section may contain such terms and conditions and such other matters as to the user of any such area as to the Governor may seem fit.

(3) The Governor may make rules with respect to the method of assessment of compensation for any damage or loss caused by the Force or any unit or detachment thereof to any area of land or part thereof requisitioned under this section.

## PART VIII

### GOVERNMENT AND GENERAL PROVISIONS. COMMAND

**182.** (1) The officers, seconded and other warrant officers and seconded and other non-commissioned officers, and men shall stand with each other in order of precedence and command in the same order as they are set out in this section. <sup>Command and precedence.</sup>

(2) Officers and other ranks of any Commonwealth Force may be attached or seconded to the Force with the approval of the Minister.

(3) Officers of the same rank shall stand with each other in order of precedence and command in accordance with any order which may be signified by the Governor and where no such order is signified then according to their seniority reckoned by the date of their respective appointments to the rank for the time being held by them.

**183.** The Governor may appoint such officer as he thinks fit, being a member of the Force or any Commonwealth Force, in whom the command of all units of the Force shall <sup>Command of the Force.</sup>

be vested and subject to the terms of such appointment such person shall have the command, direction and general superintendence of all such units.

Regulations as to command.

184. The Governor may make regulations as to the persons, being members of the Force, in whom command over the units or any part or member thereof is vested and as to the circumstances in which such command is to be exercised.

Powers of command of members of co-operating forces.

185. In so far as powers of command depend on rank, a member or any co-operating military, naval or air force who

- (a) is acting with any unit; or
- (b) is a member of a body of any of those forces which is acting with any unit,

shall have the like such powers as a member of the Force of corresponding rank; and for the purposes of sections 35 and 75 any such member of the said military, naval or air forces shall be treated as if he were a member of the Force of corresponding rank.

#### REDRESS OF COMPLAINTS

Complaints by officers.

186. (1) If an officer thinks himself wronged in any matter by a superior officer or authority and on application to his commanding officer does not obtain the redress to which he thinks he is entitled, he may make a complaint with respect to that matter to the Governor.

(2) On receiving any such complaint the Governor shall investigate the complaint and shall grant any redress which appears to him to be necessary.

Complaints by other ranks.

187. (1) If an other rank thinks himself wronged in any matter by any officer other than his commanding officer or by any other rank, he may make a complaint with respect to that matter to his commanding officer.

(2) If an other rank thinks himself wronged in any matter by his commanding officer, either by reason of redress not being given to his satisfaction on a complaint under subsection (1) or for any other reason, he may make a complaint with respect thereto to the Minister.

(3) The Minister or the commanding officer shall investigate any complaint received by him under this section and shall take such steps as he may consider necessary for redressing the matters complained of.

#### EXEMPTIONS FOR MEMBERS OF THE FORCE

**188.** An officer or other rank is exempt from serving on any jury. Exemption from jury service.

**189.** (1) Duties or tolls for embarking from or disembarking on any pier, wharf, quay or landing place (including an airfield or airport) in the Territory, or for passing over any road, ferry or bridge in the Territory, shall not be payable in respect of—

- (a) members of the Force on duty;
- (b) vehicles in military service, being vehicles belonging to the Force or other vehicles driven by persons (whether members of the Force or not) in service of the Force;
- (c) goods carried in such vehicles;
- (d) horses or other animals in military service.

(2) In subsection (1) the expression "in military service" means employed under proper military authority for the purposes of any body of the Force or accompanying any body of the Forces.

**190.** No judgment, decree or order given or made against a member of the Force by any court in the Territory shall be enforced by the levying of execution on any property of the person against whom it is given or made, being public property, used by him for military purposes. Exemption from taking in execution of property used for military purposes.

#### PROVISIONS RELATING TO DESERTERS AND ABSENTEES WITHOUT LEAVE

**191.** (1) A constable may arrest without a warrant any person whom he has reasonable cause to suspect of being an officer or other rank who has deserted or is absent without leave. Arrest of deserters and absentees without leave.

(2) Where a constable is not available, any officer or other rank of the Force or any other person may arrest without a warrant any person whom he has reasonable cause to suspect of being an officer or other rank who has deserted or is absent without leave.

(3) Any person in the Territory having authority to issue a warrant for the arrest of a person charged with crime, if satisfied by evidence on oath that there is, or is reasonably suspected of being, within his jurisdiction an officer or other rank of the Force who has deserted or is absent without leave or is reasonably suspected of having deserted or of being absent without leave, may issue a warrant authorising his arrest.

(4) A person in custody in pursuance of this section shall as soon as practicable be brought before a court of summary jurisdiction.

## Proceedings

**192.** (1) Subsections (2) to (4) (inclusive) have effect where a person who is brought before a court of summary jurisdiction is alleged to be an officer or other rank who has deserted or is absent without leave.

(2) (a) If he admits that he is illegally absent from the Force and the court is satisfied of the truth of the admission, then

(i) unless he is in custody for some other cause the court shall; and

(ii) notwithstanding that he is in custody for some other cause,

the court may forthwith either cause him to be delivered into military custody in such manner as the court may think fit, or commit him to some prison, police station or other place provided for the confinement of persons in custody, to be kept there for such reasonable time as the court may specify (not exceeding such time as appears to the court reasonably necessary for the purpose of enabling him to be delivered into military custody) or until sooner delivered into such custody.

(b) Any time specified by the court may be extended by the court from time to time if it appears to the court reasonably necessary so to do for the purpose aforesaid.

(3) If he does not admit that he is illegally absent, or the court is not satisfied of the truth of the admission, the court shall consider the evidence and any statement of the accused, and if satisfied that he is subject to military law and if of opinion that there is sufficient evidence to justify his being tried for an offence of desertion or absence without leave, then, unless he is in custody for some other cause,

him to be delivered into military custody or commit him as aforesaid, but otherwise shall discharge him; but if he is in custody for some other cause the court may act in accordance with this subsection.

(4) The provisions of law in force in the Territory relating to the constitution and procedure of courts of summary jurisdiction holding preliminary inquiries and conferring powers of adjournment and remand on such courts so acting, and the provisions as to evidence and the issue and enforcement of summonses or warrants to secure the attendance of witnesses, apply to any proceedings under this section.

**193.** (1) Where a person surrenders himself to a constable as being absent from the Force, the constable shall (unless he surrenders himself at a police station) bring him to a police station.

Deserters and absentees without leave surrendering to police.

(2) The police officer in charge of a police station at which a person has surrendered himself, or to which a person who has so surrendered himself is brought, shall forthwith inquire into the case, and if it appears to that officer that the said person is illegally absent from the Force he may cause him to be delivered into military custody without bringing him before a court of summary jurisdiction or may bring him before such a court.

**194.** (1) Where a court of summary jurisdiction in pursuance of section 192 deals with a person as illegally absent, then when that person is delivered into military custody there shall be handed over a certificate in the prescribed form, signed by a magistrate, containing the prescribed particulars as to his arrest or surrender and the proceedings before the court.

Certificates of arrest or surrender of deserters and absentees.

(2) Where a person is delivered into military custody without being brought before a court, whether under the provisions of section 193 or under any other lawful power, there shall be handed over a certificate in the prescribed form, signed by the police officer who causes him to be delivered into military custody, containing the prescribed particulars relating to his surrender.

(3) In any proceedings for an offence under section 39 or section 40

(a) a document purporting to be a certificate under either subsection (1) or subsection (2) of this section, or under the corresponding provisions

of any service law (other than this Act) and to be signed as thereby required, shall be evidence of the matters stated in the document;

- (b) where the proceedings are against a person who has been taken into military custody on arrest or surrender, a certificate in the prescribed form purporting to be signed by a provost officer or any corresponding officer of a force raised under the law of a country in the Commonwealth, by any other officer in charge of the guardroom or other place where that person was confined on being taken into custody, stating the fact, date, time and place of arrest or surrender shall be evidence of the matters stated in the certificate.

Duties of superintendents of prisons and others to receive deserters and absentees.

**195.** (1) The superintendent or other person in charge of a civil prison shall receive any person duly committed to that prison by a court of summary jurisdiction as illegally absent from the Force and to detain him until in accordance with the directions of the court he is delivered into military custody.

(2) Subsection (1) applies to the person having charge of a police station or other place (not being a prison) provided for the confinement of persons in custody, as it applies to the superintendent of a prison.

#### OFFENCES RELATING TO MILITARY MATTERS PUNISHABLE BY CIVIL COURTS

Punishment for pretending to be a deserter.

**196.** Every person who falsely represents himself to any military, naval, air force or civil authority to be a deserter from the Force is liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for three months or to both such fine and such imprisonment.

Punishment for procuring and assisting desertion.

**197.** Every person who

- (a) procures or persuades any officer or other rank to desert or to absent himself without leave;
- (b) knowing that any such officer or other rank is about to desert or absent himself without leave, assists him in so doing; or

- (c) knowing any person to be a deserter or absentee without leave from the Force, conceals him or assists him in concealing himself or assists in his rescue from custody,

is guilty of an offence and is liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for three months, or to both such a fine and such imprisonment, or on conviction on indictment to a fine of two thousand five hundred dollars or to imprisonment for two years or to both such fine and such imprisonment.

**198.** Every person who wilfully obstructs or otherwise interferes with any officer or other rank acting in the execution of his duty is liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for three months or to both such fine and such imprisonment.

Punishment for obstructing members of Force in execution of duty.

**199.** Every person who

- (a) produces in an officer or other person any sickness or disability; or  
 (b) supplies to or for him any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service;  
 (c) furnishes a false certificate of health;

Punishment for aiding malingering.

with a view to enabling him to avoid military service or duty, whether permanently or temporarily, is guilty of an offence and is liable on summary conviction to a fine of five hundred dollars or to imprisonment for three months or to both such fine and such imprisonment, or on conviction on indictment to a fine of two thousand five hundred dollars or to imprisonment for two years or to both such fine and such imprisonment.

**200.** (1) Every person who acquires any military stores or solicits or procures any person to dispose of any military stores, or acts for any person in the disposing of any military stores, is guilty of an offence unless he proves either—

Unlawful purchase, &c., of military stores.

- (a) that he did not know, and could not reasonably be expected to know, that the chattels in question were military stores; or  
 (b) that those chattels had (by the transaction with which he is charged or some earlier transaction

been disposed of by order or with the consent of some person or authority who had, or whom he had reasonable cause to believe to have, power to give the order or consent; or

- (c) that those chattels had become the property of an officer who had retired or ceased to be an officer or an other rank, or of the personal representatives of a person who had died.

and is liable on summary conviction to a fine of five hundred dollars or to imprisonment for a term of three months or to both such fine and such imprisonment, or on conviction on indictment to a fine of two thousand five hundred dollars or imprisonment for two years or to both such fine and such imprisonment.

(2) A constable or any person authorised by the Commander may arrest without warrant any person whom he has reasonable grounds for suspecting of having committed an offence against this section, and may seize any property which he has reasonable grounds for suspecting of having been the subject of the offence.

(3) A person having authority to issue a warrant for the arrest of a person charged with crime may, if satisfied by evidence on oath that a person within his jurisdiction has, or is reasonably suspected of having, in his possession any property which has been the subject of an offence against this section, grant a warrant to search for such property as in the case of stolen goods; and any property suspected of having been the subject of such an offence which is found on such a search shall be seized by the officer charged with the execution of the warrant, and that officer shall bring the person in whose possession or keeping the property is found before a court of summary jurisdiction.

- (4) In this section—

the expression “acquire” means buy, take in exchange, take in pawn or otherwise receive (whether apart from this section the receiving is lawful or not);

the expression “dispose” means sell, give in exchange, pledge or otherwise hand over (whether apart from this section the handing over is lawful or not);

the expression "military stores" means any chattel of any description belonging to the Government, which has been issued for use for military purposes or is held in store for the purpose of being so issued when required, and includes any chattel which had belonged, and had been issued or held, as aforesaid at some past time.

(5) For the purposes of subsection (3) property is deemed to be in the possession of a person if he has it under his control, and whether he has it for his own use or benefit or for the use or benefit of another.

**201.** (1) Every person who

(a) as a pledge or a security for a debt; or

(b) with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person,

receives, detains or has in his possession any official document issued in connection with the payment to any person of any pay, pension, allowance, gratuity or other payment payable in respect of his or any other person's military service is guilty of an offence against this section.

(2) Every person who has in his possession without lawful authority or excuse (the proof whereof shall lie on him) any document mentioned in subsection (1) or any official document issued in connection with the mobilization or demobilization of any units of the Force or any member thereof, is guilty of an offence against this section.

(3) Every person guilty of an offence against this section is liable on summary conviction to a fine of five hundred dollars or to imprisonment for three months or to both such fine and such imprisonment.

(4) For the purposes of this section a document is deemed to be in the possession of a person, if he has it under his control and whether he has it for his own use or benefit or for the use or benefit of another.

**202.** (1) Every person who

(a) without authority uses or wears any military decoration, or any badge, wound stripe or emblem supplied; or

Illegal dealings  
in documents  
relating to pay,  
pensions,  
mobilization, &c.

Unauthorised  
use of and  
dealing in  
decorations, &c.

- (b) uses or wears any decoration, badge, wound stripe, or emblem so nearly resembling any military decoration, or any such badge, stripe or emblem as aforesaid, as to be calculated to deceive; or
- (c) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, badge, stripe or emblem as is mentioned in paragraph (a) of this subsection, is guilty of an offence against this section; but nothing in this subsection shall prohibit the use or wearing of brooches or ornaments representing military badges.

(2) Every person who purchases or takes in pawn any naval, military or air force decoration awarded to any member of the Force, or solicits or procures any person to sell or pledge any such decoration, or acts for any person in the sale or pledging thereof, shall be guilty of an offence against this section unless he proves that at the time of the alleged offence the person to whom the decoration was awarded was dead or had ceased to be a member of that Force.

(3) Every person guilty of an offence against this section is liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for three months or to both such fine and such imprisonment.

#### PROVISIONS AS TO EVIDENCE

General provisions as to evidence.

**203.** (1) This section has effect with respect to evidence in proceedings under this Act, whether before a court-martial, a civil court or otherwise.

(2) A document purporting to be a copy of the attestation paper signed by any person and to be certified to be a true copy by a person stated in the certificate to have the custody of the attestation paper is evidence of the enlistment of the person attested.

(3) The attestation paper purporting to be signed by a person on his enlistment is evidence of his having given the answers to questions which he is therein recorded as having given.

(4) A letter, return or other document stating that any person

(a) was or was not serving at any specified time or during any specified period in any part of Her

Majesty's forces or was discharged from any part of those forces at or before any specified time; or

- (b) held or did not hold at any specified time any specified rank or appointment in any of those forces, or had at or before any specified time been attached, posted or transferred to any part of those forces, or at any specified time or during any specified period was or was not serving or held or did not hold any rank or appointment in any particular country or place; or
- (c) was or was not at any specified time authorised to use or wear any decoration, badge, wound stripe or emblem,

is, if purporting to be issued by or on behalf of the Governor or the Commander, evidence of the matters stated in the document.

(5) A record made in any service book or other document prescribed by regulations for the purposes of this subsection, being a record made in pursuance of military duty, and purporting to be signed by the commanding officer or by any person whose duty it was to make the record, is evidence of the facts stated therein; and a copy of a record (including the signature thereto) in one of the said service books and a copy of such document, purporting to be certified to be a true copy by a person stated in the certificate to have the custody of the book or the original document, as the case may be, is evidence of the record.

(6) A document purporting to be issued by order of the Minister or the Commander and to contain instructions or orders given or made by the Minister or the Commander is evidence of the giving of the instructions or making of the orders and of their contents.

(7) A certificate purporting to be issued by or on behalf of the Minister, or the Commander, and stating—

- (a) that a decoration of a description specified in or annexed to the certificate is a military, naval or air force decoration; or
- (b) that a badge, wound stripe or emblem of a description specified in or annexed to the certificate is one supplied or authorised by the Minister, or the Commander,

is evidence of the matters stated in the certificate.

(8) A certificate purporting to be signed by a person's commanding officer or any officer authorised by him to give the certificate, and stating the contents of, or any part of, standing orders or other routine orders of a continuing nature made for

(a) any formation or unit or body of troops; or

(b) any command or other area, garrison or place; or

(c) any ship, train or aircraft,

is evidence of the matters stated in the certificate in proceedings against that person.

Proof of  
outcome of  
civil trial.

**204.** (1) Where a person subject to military law under this Act has been tried before a civil court (whether at the time of the trial he was so subject or not), a certificate signed by a judge or a magistrate and stating all or any of the following matters

(a) that the said person has been tried before the court for an offence specified in the certificate;

(b) the result of the trial;

(c) what judgment or order was given or made by the court;

(d) that other offences specified in the certificate were taken into consideration at the trial;

is for the purposes of this Act evidence of the matters stated in the certificate.

(2) A document purporting to be a certificate under this section and to be signed by a judge or a magistrate shall, unless the contrary is shown, be deemed to be such a certificate.

Evidence of  
proceedings of  
court-martial.

**205.** (1) The original proceedings of a court-martial under service law purporting to be signed by the president of the court and being in the custody of any person having the lawful custody thereof is admissible in evidence on production from that custody.

(2) A document purporting to be a copy of the original proceedings of a court-martial under service law or any part thereof and to be certified by any other person having the lawful custody of the proceedings to be a true copy is evidence of the contents of the proceedings or the part to which the document relates, as the case may be.

(3) This section applies to evidence given in any court, whether civil or criminal.

## MISCELLANEOUS PROVISIONS

**206.** (1) Where a person is in military custody when charged with, or with a view to his being charged with, an offence against Part IV or the corresponding provisions of any other service law the superintendent or other person in charge of a prison (not being a military prison) or of the person having charge of any police station or other place in which prisoners may be lawfully detained, upon delivery to him of a written order purporting to be signed by the commanding officer of the person in custody, shall receive him into his custody for a period not exceeding seven days.

Temporary reception in civil custody of persons under escort.

(2) In this section "military prison" has the meaning ascribed to it in section 130.

**207.** (1) Every assignment of or charge on, and every agreement to assign or charge, any pay, military award, grant, pension or allowance payable to any person in respect of his or any other person's service in the Force is void.

Avoidance of assignment of, or charge on military pay, pensions, &c.

(2) Save as expressly provided herein, no order shall be made by any court the effect of which would be to restrain any person from receiving anything which by virtue of this section he is precluded from assigning and to direct payment thereof to another person.

(3) Nothing in this section shall prejudice any law providing for the payment of any sum to a bankrupt's trustee in bankruptcy for distribution among creditors.

**208.** (1) An officer of a rank not below that of major or corresponding rank (hereinafter referred to as an "authorised officer") may, outside the Territory, take statutory declarations from persons subject to military law.

Power of certain officers to take statutory declarations.

(2) A document purporting to have subscribed thereto the signature of an authorised officer in testimony of a statutory declaration being taken before him in pursuance of this section and containing in the jurat or attestation a statement of the date on which and the place at which the declaration was taken and of the full name and rank of that officer shall be admitted in evidence without proof of the signature being the signature of that officer or of the facts so stated.

Retirement  
in the interest  
of the Force.

**209.** (1) Where it is represented to the Governor or the Governor considers it desirable in the interest of the Force that an officer or other rank should be required to retire from the Force on grounds which cannot suitably be dealt with by any other provision of this Act he shall call for a full report from the Commanding Officer of the unit in which the officer or other rank has served during the last preceding three years.

(2) If, after considering such report and giving the officer or other rank an opportunity of submitting a reply to the grounds on which his retirement is contemplated, and having regard to the conditions of the Force, the usefulness of the officer or other rank thereto, and all the other circumstances of the case, the Governor is satisfied that it is desirable in the interest of the Force so to do, he shall require such officer or other rank to retire on such date as to him may seem fit.

(3) This section applies to members of the Volunteer Defence Force established under Part X as it applies to officers and other ranks of the Force.

## PART IX

### RESERVE

Reservists.

**210.** Notwithstanding the provisions of section 230, this Part applies to every other rank who has been transferred to the reserve while he is subject to reserve liability or serving in the reserve.

Annual  
training.

**211.** (1) Every reservist is liable to be called out for training at such place and for such periods not exceeding twenty-eight days in any one year as may be specified in regulations made under this Part.

(2) Every reservist may, during any training for which he may be called out, be attached to and trained with any unit.

Calling out  
of the reserve  
on temporary  
service.

**212.** (1) The Governor may, at any time when occasions appear to require, call out the reserve, or as many reservists as he thinks necessary on temporary service.

(2) Reservists called out for service under this section are not liable to serve at any one time for a period exceeding twenty-eight days.

**213.** (1) The Governor may, in the event of a state of war being declared or of insurrection, hostilities or public emergency, by proclamation, call out the reserve on permanent service. Calling out of the reserve on permanent service.

(2) Every such proclamation shall be obeyed, and every reservist called out shall attend at the place and times fixed by such proclamation, and at and after that time shall be deemed to be called out on permanent service.

(3) Every reservist when called out on permanent service is liable to serve as an other rank until his services are no longer required, so, however, that he shall not be required to serve for a period exceeding in the whole the remaining unexpired term of service in the reserve and any further period not exceeding twelve months as an other rank may, under section 14 of this Act be retained in the Force after the time at which he would otherwise be entitled to be discharged.

**214.** (1) Any reservist who, without leave lawfully granted or other reasonable excuse, fails to appear at the time and place appointed for annual training, or when called out on temporary service or on permanent service, is Punishment for non-attendance.

(a) if called out on permanent service, guilty, according to the circumstances, of deserting within the meaning of section 39 or of absenting himself without leave within the meaning of section 40; or

(b) if called out on temporary service or for annual training, guilty of absenting himself without leave within the meaning of the said section 40.

(2) Any reservist who commits any offence under this section is liable

(a) to be tried by court-martial, and on conviction to suffer imprisonment for a term not exceeding two years or less punishment, or

(b) to be tried by a court of summary jurisdiction and, on conviction, is liable to a fine of one hundred dollars, and in default of payment to imprisonment for two months.

(3) Section 75 of this Act applies to reservists who commit an offence against this section as it applies to persons otherwise subject to military law.

Record of  
illegal absence.

**215.** Where a reservist fails to appear at the time and place appointed for annual training or when called out on temporary or on permanent service, and his absence continues for not less than twenty-one days, an entry of such absence shall be made by an officer in the service books and such entry shall be prima facie evidence of the fact of such absence.

Discharge  
during service.

**216.** A reservist may be discharged by the competent military authority at any time during the currency of any term of reserve service upon such grounds as may be prescribed.

Regulations as  
to the reserve.

**217.** The Governor may make regulations with respect to the government, discipline and pay of the reserve, and the discharge of reservists, and, without prejudice to the generality of the foregoing, may make regulations

- (a) for the calling out for training of reservists;
- (b) for the calling out of the reserve on temporary service and on permanent service; and
- (c) requiring reservists to report themselves from time to time.

## PART X

### VOLUNTEER DEFENCE FORCE

Interpretation.

**218.** In this part

- (a) "volunteer officer" means an officer commissioned for service in the Volunteer Defence Force, and
- (b) "volunteer" means an enrolled warrant officer, non-commissioned officer or private belonging to the Volunteer Defence Force.

Constitution  
of Force

**219.** The Volunteer Defence Force of the Territory shall consist of such number and types of units and sub-units as the Governor from time to time considers necessary and commensurate with the needs of the Territory.

**220.** The Commander of the Volunteer Defence Force shall be the person appointed as commander under section 183. Appointment of Commander.

**221.** The Governor may appoint fit and proper persons to act as permanent staff of the Volunteer Force as may be necessary. Appointment of Staff Officers.

**222.** (1) The Governor may appoint the officers of the Volunteer Defence Force with such rank as he may from time to time think necessary. Appointment of officers.

(2) The appointment of officers to the Volunteer Defence Force shall be for such period or periods as the Governor shall determine, and the Governor may at any time terminate or revoke any such appointment by notice to that effect signed by the Commander.

(3) This section does not apply to the Commander.

**223.** (1) The Governor may accept the services of any persons desirous of being enrolled in the Volunteer Defence Force and offering their services. Enlistment.

(2) Subject to provisions of section 227, enlistment shall be for a term certain.

(3) The length of any term certain for which persons may enlist shall be such as the Governor may from time to time direct; but on first enlistment it shall be for not less than three years.

**224.** A volunteer shall be deemed to be duly enrolled from the date on which he signs the form of attestation in use at such date. Enrolment.

**225.** (1) Every officer, non-commissioned officer, and private of the Force shall take and subscribe the oath of allegiance within one month after enrolment; such oath of allegiance may be administered by the Commander, or Recruiting Officer of the Force, the commanding officer of the unit or sub-unit. Oath of allegiance.

(2) The oath shall be in the following form :

I, A.B. do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the second, and that I will faithfully serve Her Majesty in Trinidad and Tobago for the defence of the same against all her enemies and opposers whatsoever, according to the conditions of my service. So help me God.

Period of  
service.

**226.** (1) Subject to this section, a volunteer shall, after enrolment, save under the provisions of this Part serve during such term certain for which he has been enrolled and until duly discharged.

(2) A volunteer shall continue to serve after the expiration of such term certain if at the time of such expiration Her Majesty is engaged in a war; and in any such case the volunteer shall continue to serve until duly discharged at the end of a war.

(3) A volunteer may, on giving fourteen days notice, and by permission in writing of the Commander, be released from the enrolment on good and sufficient grounds certified by his commanding officer upon his paying all money due or which may become due under this Act or of any rules made thereunder.

Governor  
empowered to  
call out Force  
to aid civil  
force.

**227.** (1) The Governor may call out the Volunteer Defence Force or any portion thereof for actual military service with their arms and ammunition, in aid of the civil power in any case in which a riot, disturbance of the peace, or other emergency requiring such service occurs, or is, in the opinion of the Governor, anticipated as likely to occur, and in either case to be beyond the powers of the civil authorities to suppress, or to prevent, or deal with.

(2) Every member of the Volunteer Defence Force or any portion thereof shall on every occasion obey the orders of his superior officer.

(3) A person who assaults or resists, or aids or incites any person to assault or resist, any member of the Volunteer Defence Force in the execution of his duty, is liable on summary conviction to a fine of one hundred and twenty dollars, or to imprisonment for three months.

(4) When called out for service the members of the Volunteer Defence Force shall receive pay and allowances and the reasonable cost of transport to and from the place or places where the services of the Force are required, may be paid out of general revenue.

Power to make  
regulations.

**228.** (1) The Governor may make regulations relating to anything necessary to be done for the carrying into effect of this Part, and without prejudice to the generality of such power, regulations under this section may make provision for

(a) the constitution from time to time, governance, training, service, pay, powers and discipline of the Volunteer Defence Force;

- (b) the granting of commissions therein, the enlistment of volunteers therein, the revocation of commissions, and the discharge of volunteers;
- (c) the service in, or attachment to, the Force of officers or men of Her Majesty's Regular Forces and their pay, powers and discipline;
- (d) any matters consequent on, or ancillary to, the matters hereinbefore generally or specially mentioned;
- (e) the obligations and liabilities (including criminal liabilities) of civilians in respect of acts or omissions relating to or affecting the governance of the Force and, in the case of any such criminal liabilities, the jurisdiction of the courts and the punishments which may be awarded;
- (f) validating past acts or omissions;
- (g) declaring what is requisite to entitle a volunteer to be deemed efficient;
- (h) defining the extent of attendance at drill to be given, and the course of instruction to be gone through by him with his unit or any part thereof.

(2) Regulations under this section may make different provisions in different classes of cases, and shall have effect notwithstanding anything inconsistent therewith in this Act and may be made with retrospective effect.

**229.** (1) The following Ordinances are repealed:

- |  |                               |
|--|-------------------------------|
| (a) The Local Forces Ordinance.                    | Repeal of certain Ordinances. |
| (b) The Volunteer Reserve Ordinance.               |                               |
| (c) The Naval Volunteer Ordinance.                 | Ch. 10. No. 1.                |
| (d) The Naval Volunteer and Defence Ordinance.     | Ch. 10. No. 2.                |
| (e) The Compulsory Training and Service Ordinance. | Ch. 10. No. 3.                |
|  | Ch. 10. No. 4.                |

(2) The repeal of the Ordinances mentioned in subsection (1) shall not operate so as to prejudice any thing done or suffered thereunder, or any right, privilege, obligation or liability acquired, accrued, or incurred thereunder.

Ch. 10 No. 1

(3) Notwithstanding the repeal of the Local Forces Ordinance, the appointment of an officer by the Governor under section 7 of that Ordinance shall be deemed to have the same force and effect as if such appointment was made under section 6 of this Act, and any officer so appointed shall be deemed to be appointed and commissioned in accordance with and for the purposes of this Act.

## PART XI

## APPLICATION OF THE ACT AND SUPPLEMENTARY PROVISIONS

*Application, Transfer and Attachment*

"Persons subject to military law and application of the Act

**230.** (1) Subject to this section, the following persons are subject to military law:—

- (a) officers and other ranks of the Force;
- (b) officers and other ranks when attached to the Force;
- (c) officers and other ranks when seconded to the Force;
- (d) officers of the reserve of officers when ordered out on duty or service for which, as such, they are liable;
- (e) reservists called out for training, on temporary service and on permanent service;
- (f) officers and men of the Volunteer Defence Force called out for training of eight hours or more, for annual camps or on temporary service or on permanent service.

(2) Officers, warrant officers and non-commissioned officers who, being members of the United Kingdom Military Forces, are subject to military law and who are seconded to serve with the Force, shall remain subject to the Imperial Act and shall not be subject to military law under this Act.

(3) The powers of arrest conferred by section 74 of the Imperial Act and the provisions of sections 186 to 190 inclusive of that Act (which relate to deserters and absentees without leave) shall continue to apply in Trinidad and Tobago to the persons referred to in subsection (2) on or after the 31st day of August, 1962, as they applied before that date.

(4) In the event of a person referred to in subsection (2) committing an offence against this Act, he may

be held, tried and punished in the Territory under the provisions of such law to which he is subject for the offence thereunder.

(5) This Act applies to persons subject thereto under this section and in relation to the units as well outside as within the Territory.

**231.** (1) Subject to the modifications specified in subsection (2) where any unit is on active service, Part IV applies to any person who is employed in the service of that unit or any part or member thereof, or accompanies the said unit or any part thereof and is not subject to service law, as the said Part IV applies to persons subject to military law. Application  
of Act to  
civilians.

(2) The modifications referred to in subsection (1) are the following:—

- (a) the punishments which may be awarded by a court-martial include a fine, but do not include any other punishment less than imprisonment;
- (b) the punishment which may be awarded where a charge is dealt with summarily is, in the case of any offence, a fine of fifty dollars but no other punishment;
- (c) the following provision has effect in substitution for subsections (2) to (4) of section 75, that is to say, that a person may be arrested by a provost officer, by any warrant officer or non-commissioned officer legally exercising authority under a provost officer or on his behalf, or by order of any officer subject to service law;
- (d) where a charge is being dealt with summarily and it has been determined that the accused is guilty, a finding shall not be recorded until after the accused has been afforded an opportunity of electing to be tried by court-martial, and if the accused so elects a finding taken with a view to the charge being tried by court-martial as may be prescribed by Rules of Procedure;
- (e) the provisions of this Act relating to the investigation of, and summary dealing with, offences, save as otherwise expressly provided, apply as they apply to soldiers;
- (f) for the purposes of the provisions of this Act relating to the investigation of offences, the commanding officer shall be such officer as may

be appointed by the officer authorised to convene a court-martial;

- (g) for references in sections 119 and 120 to being, continuing, or ceasing to be subject to this Act there is substituted references to being, continuing to be or ceasing to be in such circumstances that the said Part IV applies, and subsection (3) of section 119 do not apply.

(3) Any fine awarded by virtue of this section, whether by a court-martial or the commanding officer, is recoverable as a debt due to the Government.

### FINANCIAL PROVISIONS AND REGULATIONS

Emoluments, pensions and gratuities appropriated out of funds of the Territory.

**232.** (1) All such sums of money as may from time to time become payable on account of pay, allowances, pensions or gratuities, are hereby appropriated out of the public funds of the Territory and shall be paid therefrom on the warrant of the Minister.

(2) In this section "Minister" means the member of the Cabinet for the time being charged with the administration of Finance.

Power to make regulations.

**233.** (1) Subject to this Act, the Minister may make regulations for the better carrying out of the provisions of this Act and generally for the good government and organisation of the Force, and without prejudice to the generality of the foregoing such regulations may make provision with respect to all or any of the following matters, that is to say—

- (a) the commissioning of officers, their terms of service, promotion, retirement, resignation, removal and such other matters concerning officers as may seem to him necessary;
- (b) the pay, duties, method of recall of officers of the reserve and other matters pertaining to such reserve of officers as may seem to him necessary;
- (c) the enlistment of persons into, and the discharge of persons from, the Force and generally for the carrying into effect of Part III, including the prescribing of the necessary forms and the administration of oaths and affirmations;
- (d) determining to what extent and under what conditions colour service in any of Her Majesty's

forces other than the Force, may be counted as colour service in the Force;

- (e) the pay, allowances, and the deductions from and forfeiture of pay, of officers and soldiers;
- (f) the pensions and gratuities of officers and soldiers (including the reckoning for pensions and gratuities of service in Her Majesty's forces other than in the Force, prior to the commencement of service in the Force);
- (g) the description, supply, use and disposal of arms, accoutrements, clothing and other stores;
- (h) prohibiting, restricting or regulating the holding of meetings within the limits of any military establishment and the admission thereto of civilians for the purpose of holding, addressing or attending any such meeting;
- (i) in respect of matters for which regulations may be made other than Part IX; and
- (j) subject to sections 130, 134 and 152, prescribing anything which may be prescribed.

(2) Any regulations made under this Act shall be laid before the Senate and the House of Representatives.

(3) The regulations contained in the Fourth, Fifth and Sixth Schedules to this Act shall be deemed to have been made under this section and may be added to, amended or revoked by regulations made by the Minister under and in accordance with this section.

(4) Whenever the Minister is satisfied that it is equitable that any regulations made under this section should have retrospective effect in order to confer a benefit upon or remove a disability to any person subject to military law, that regulation may be given retrospective effect for that purpose.

**234.** (1) Any power conferred by this Act to make regulations, rules, orders or other instruments shall include power to make provision for specified cases or classes of cases, and to make different provisions for different classes or cases, and for the purposes of any such instrument classes of cases may be defined by reference to any circumstances specified in the instrument.

Powers exercisable in subsidiary legislation.

(2) Any regulations, rules, orders or other instruments referred to in subsection (1) may impose conditions, require acts or things to be performed or done to the satis-

faction of any person named therein whether or not such persons are members of the Force, empower such persons to issue orders either orally or in writing requiring acts or things to be performed or done, or prohibiting acts or things from being performed or done, and prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled and provide for appeal against any such order, requirement or direction.

Execution  
of orders,  
instruments, &c.

**235.** Save as expressly provided by any rules or regulations, any order or determination required or authorised to be made by any military officer or authority may be signified under the hand of any officer authorised in that behalf, and any instrument signifying such an order or determination and purporting to be signed by an officer stated therein to be so authorised shall unless the contrary is proved be deemed to be signed by an officer so authorised.

FIRST SCHEDULE

COMMISSIONS

Section 7 (2)

*Form of Queen's Commission*

I, ..... Governor and  
Commander-in-Chief of Trinidad and Tobago acting under command of  
Her Majesty Queen Elizabeth the Second do give to  
Greetings and reposing especial trust in your loyalty, courage and good  
conduct, do by these presents constitute and appoint you to be an officer  
in the Trinidad and Tobago Defence Force from the  
day of ..... , 19 ..

You are therefore carefully and diligently to discharge your duty  
as such an officer in the rank of ..... or in such other  
rank as you may from time to time hereafter be promoted or appointed  
and you are in such manner and on such occasions to exercise and well  
discipline in their duties, such officers and soldiers as may be placed under  
your orders from time to time and use your best endeavours to keep them  
in good order and discipline. I do hereby command, all such officers and  
soldiers to obey you as their superior officer, and you to observe and  
follow such orders and directions as from time to time you shall receive  
from me or any of your superior officers in pursuance of the trust hereby  
reposed in you.

Given at  
day of

Trinidad, this  
, 19 ..

*Governor and Commander-in-Chief,  
Trinidad and Tobago*

## SECOND SCHEDULE

Section 9 97

## Alternative Offences of which accused may be convicted by Court-martial

Offence Charged	Alternative offence
1. Any offence against subsection (1) of section 25 of this Act.	1. Any offence against subsection (2) of section 25 of this Act.
2. Any offence against subsection (1) of section 26 of this Act.	2. Any offence against subsection (2) of section 26 of this Act.
3. Any offence against subsection (1) of section 33 of this Act.	3. Any offence against subsection (2) of section 33 of this Act.
4. Communicating with or giving intelligence to the enemy, either with intent to assist the enemy or without authority.	4. Disclosing information without authority.
5. Striking his superior officer.	5. (a) Using violence to his superior officer otherwise than by striking him. (b) Offering violence to his superior officer.
6. Using violence to his superior officer otherwise than by striking him.	6. Offering violence to his superior officer.
7. Using threatening language to his superior officer.	7. Using insubordinate language to his superior officer.
8. Disobeying, in such a manner as to show wilful defiance of authority, a lawful command given or sent to him personally.	8. Disobeying a lawful command.
9. Desertion.	9. Absence without leave.
10. Attempting to desert.	10. Absence without leave.
11. Stealing any property.	11. Fraudulently misapplying the property.
12. Any offence against section 45 of this Act involving wilfulness.	12. The corresponding offence involving negligence.
13. Any offence against subsection (1) of section 55 of this Act.	13. Any offence against subsection (2) of section 55 of this Act.
14. Any offence against subsection (1) of section 56 of this Act involving striking.	14. (a) The corresponding offence involving the use of violence other than striking. (b) The corresponding offence involving the offering of violence.
15. Any offence against section 56 of this Act involving the use of violence other than striking.	15. The corresponding offence involving the offering of violence.

## THIRD SCHEDULE

Sections 174, 178

SUPPLEMENTARY PROVISIONS AS TO PAYMENT FOR  
REQUISITIONED VEHICLES

1. (1) Subject to the provisions of this Schedule, any payment under subsection (1) of section 174 (without prejudice to any agreement as to payment on account) becomes due on the expiration of the period for which possession of the vehicle in question is retained.

(2) Subject to the provisions of this Schedule, any payment under subsection (2) of section 174 of this Act becomes due on the furnishing of the vehicle.

(3) Any payment under paragraph (b) of subsection (3) of section 174 becomes due on the furnishing of the vehicle.

2. (1) As soon as may be after the furnishing of a vehicle there shall be given or sent to the person by whom it was furnished, by such person and in such form and manner as may be specified by regulations, a receipt for the vehicle specifying what payment, at what rate or of what amount, is offered in respect of the furnishing thereof under paragraph (a) of subsection (1), or, as the case may be, under subsection (2), of section 174.

(2) As soon as may be after the end of the period for which possession of a vehicle is retained, there shall be given or sent to the person by whom the vehicle was furnished, by such person and in such form and manner as aforesaid, a notice stating whether any, and if so what, damage to the vehicle has occurred during the period for which possession of the vehicle was retained, other than damage which has been made good by a person acting on behalf of the Government, or that the total loss of the vehicle has occurred, and specifying what payment is offered in respect of the damage or loss under paragraph (b) or paragraph (c) of subsection (1) of section 174.

3. (1) A person to whom a receipt or notice under paragraph 2 has been given or sent (hereinafter referred to as "the claimant") shall be deemed to have accepted the offer contained therein unless within three weeks from the time at which he received the receipt or notice he gives notice to the person by whom the receipt or notice was given or sent that he claims some specified greater amount or rate.

(2) Where a notice under paragraph 2 has been given or sent stating that no damage has occurred to a vehicle during the period for which possession of the vehicle is retained, the claimant shall be deemed to have agreed that no damage has so occurred unless within three weeks from the time at which he received the notice he gives notice to the person by whom the notice was given or sent claiming that damage has so occurred and stating what payment he claims under subsection (1) of section 174 in respect of the damage.

(3) On the making of a claim under subparagraph (2) or (3) the Governor may notify the claimant that it is not proposed to make any further offer or by notice may make a specified further offer.

4. The regulations referred to in paragraph 2 of this Schedule shall secure that any receipt or notice under that paragraph, contains a statement of the effect of paragraph 3 of this Schedule.

5. In this Schedule the expression "damage" does not include damage resulting in a total loss, or damage attributable to fair wear and tear.

6. Nothing in this Schedule applies to a case falling within subsection (4) of section 174 or to subsection (2) of section 178, and any sum payable by virtue of those subsections becomes due on the making, by the person by whom the vehicle is required to be furnished, of a claim therefor to such authority as may have been specified in that behalf in the direction requiring the furnishing of the vehicle (or if no such authority was specified to the Governor); but before making any such payment the said authority or the Governor, as the case may be, may require reasonable particulars of the damage in question and of the circumstances in which it occurred and may require a reasonable opportunity to be afforded to a person authorised by them to inspect the vehicle in question.

#### FOURTH SCHEDULE

Section 234 (3)

##### PAY AND ALLOWANCES

1. These Regulations may be cited as the Defence (Rates of Pay and Short title Allowances) Regulations, 1962.

2. (1) In these Regulations,

Interpretation.

(a) "child" means—

- (i) a legitimate or legitimated child,
- (ii) a step-child,
- (iii) an adopted child,
- (iv) an illegitimate child who is wholly or mainly dependent upon the member of the Force for support,

who has not attained the age of sixteen years;

- (b) "military qualification" means a qualification of a military nature which is laid down in orders of the Commander;
- (c) "reckonable service" means unforfeited unbroken paid colour service in the Force, after attaining the age of eighteen years;
- (d) "tradesman" means an other rank who is employed in a trade which is laid down in orders of the Commander.
- (e) "the act" means the Defence Act 1962.

(2) References to groups and classes of tradesmen shall be construed as references to groups and classes laid down in orders of the Commander.

##### OFFICERS

3. The rates of pay for officers are as laid down in Table I to these Rates of pay Regulations.

4. Family allowance and unaccommodated Rent Allowance are payable Rates of family to male officers at the rates laid down in Table II to these Regulations and unaccommodated rent allowance on the conditions set out therein.

## OTHER RANKS

**Rates of pay.** 5. The rates of pay for other ranks are as laid down in Table III to these Regulations.

**Rates of family and unaccommodated rent allowance.** 6. Family allowance and unaccommodated rent allowance are payable to male other ranks in the Force at the rates laid down in Table IV to these Regulations on the conditions set out therein.

## GENERAL

**Ration allowance.** 7. (1) Ration allowance is payable to members of the Force for each day that such members are not in receipt of rations. Entitlement to ration allowance shall be promulgated in orders by commanding officers.

(2) The rate of ration allowance shall be the market value of the daily ration and shall be laid down in orders of the Commander.

**Rates for acting ranks.** 8. A member of the Force holding acting rank shall draw pay and allowances at the rate prescribed for the same substantive rank as his acting rank.

**Other paid service in H. M. Forces to count.** 9. Where the rate of pay to which a member of the Force is entitled under these Regulations depends upon his length of service, either in a particular rank or generally, any paid service in Her Majesty's military forces which immediately preceded service in the Force shall be taken into account to the same extent as it would have been had it been service in the Force.

**Pay and allowances while attached to United Kingdom Forces.** 10. Where a member of the Force out of the Territory is attached to, serving with or attending a course with the forces of Her Majesty raised in the United Kingdom, he shall receive the rates of pay and allowances payable to a member of the regular forces of Her Majesty raised in the United Kingdom of the same rank as himself for every day while he is out of the Territory; but while an other rank is attending a course as an officer cadet he shall receive during all periods of leave from the course, a special allowance which will bring the total of his pay and ration allowance to the sum of \$9.84 or such other sum as may be fixed from time to time by the Governor.

**Uniform grant.** 11. An officer who has not been previously commissioned in the Force shall on first commissioning be paid a uniform allowance of \$250 or such other sum as may from time to time be fixed by the Governor.

**Uniform upkeep allowance.** 11a. An officer shall be paid a uniform upkeep allowance of \$150.00 per annum or such other sum as may be fixed by the Governor.

**Clothing allowance.** 12. (1) A cadet proceeding for the first time to the United Kingdom for training at Royal Military College, Sandhurst, or Mons Officer Cadet School or Royal Naval College, Dartmouth, shall receive an allowance of \$336 or such other sum as may be fixed by the Governor.

(2) An officer or other rank proceeding on a course (other than a post-commissioning course) to the United Kingdom shall receive an allowance of \$672 or such other sum as may be fixed by the Governor for the purchase of military and civilian clothing.

(3) The allowance under paragraph (2) is admissible only once in an officer's or other rank's service. In the event of an other rank being commissioned after attending a course in the United Kingdom, he may receive a second clothing allowance in the event of a further course abroad at the discretion of the Governor.

13. (1) A member of the Force proceeding on leave shall be entitled Free travel to free travel from his duty station to his place of leave and return for on leave. himself and his family.

(2) Upon the termination of each period of three years service outside his territory of residence a member of the Force shall be entitled when proceeding on leave to that territory, to free travel from his duty station to his territory of residence and return for himself and his family up to a maximum of five full passages.

14. A motor mileage allowance shall be paid to owners of private Motor mileage vehicles who use those vehicles on official duty and when official transport allowance. is not available at rates to be fixed from time to time by the Governor.

15. (1) When officers and other ranks are away overnight on duty Daily and from their station they shall be paid the following rate of nightly sub- nightly subsistence allowance or such other rate as may be fixed from time to time subsistence allowance by the Governor—

Officers ...	...	...	Refund of actual accommodation expenses, including meals, on presentation of receipted bills plus out-of-pocket expenses of \$5.00 per night.
Other Ranks ...	...	...	Refund of actual accommodation expenses, including meals, on presentation of receipted bills plus out-of-pocket expenses of \$2.50 per night.

(2) Where officers and other ranks are away on duty from their station for periods of over five hours but not including an overnight stay, they shall be paid the following rate of daily subsistence allowance or such other rate as may be fixed from time to time by the Governor—

<i>Officers</i>	<i>Other Ranks</i>
\$4.16	\$2.08

16. (1) An officer of at least 25 years of age or an other rank of at least 21 years of age, who is married, is eligible to receive Disturbance allowance. allowance.

(2) Officers and other ranks shall be paid disturbance allowance subject to the same conditions that apply to the regular forces of Her Majesty raised in the United Kingdom at the following rates or at such other rates or subject to such other conditions as may be fixed from time to time by the Governor.

	<i>Officers</i>	<i>Other Ranks</i>
	\$	\$
For moves into private accommodation or unfurnished Government Quarters ...	192.00	108.00
For moves into furnished Government Quarters and hiring	96.00	57.60



*B—Officers of the Quartermaster and Special Duty Category*

Rank	Service	Per Day
Lieutenant ...	} on appointment	\$ c.
Sub-Lieutenant ...		9 04
Lieutenant ...	} after 2 years reckonable service	9 52
Sub-Lieutenant ...		10 00
Lieutenant ...	} after 4 years reckonable service	10 48
Sub-Lieutenant ...		13 04
Captain ...	} after 6 years reckonable service	13 52
Lieutenant ...		14 00
Captain ...	} after 8 years reckonable service	
Lieutenant ...		
Major ...	} after ten years reckonable service	
Lieutenant-Commander ...		
Major ...	} after 12 years reckonable service	
Lieutenant-Commander ...		

TABLE II

Regulation 4

RATES OF FAMILY ALLOWANCE  
UNACCOMMODATED RENT ALLOWANCE  
OFFICERS

*A—Family allowances—daily rates*

	Per Day	
	When not occupying quarters	When occupying quarters
	\$ c.	\$ c.
All officers between the ages of twenty-one and over ...	3 96	1 37
All officers of the age of twenty-five and over	3 96	3 24

*B—Unaccommodated rent allowance—daily rates*

All officers ...	\$ c.
	2 40

## CONDITIONS OF PAYMENT OF ALLOWANCES

1. An officer is entitled to a family allowance where :—
  - (a) he is maintaining his wife or dependent children ; or
  - (b) he is a widower, or is divorced, and has the custody of any of his dependent children ; and
  - (c) he makes provision to the satisfaction of the Commander for the maintenance of his wife and children at least to the extent of the rate of family allowance appropriate to his case.
2. An officer is entitled to a rent allowance where :—
  - (a) he is maintaining his wife or any of his dependent children ; and
  - (b) he is not accommodated in married quarters provided by the Government.
3. An officer in receipt of an allowance is responsible for notifying his commanding officer immediately of any change in the circumstances of his family which affects his entitlement to such allowances.

TABLE III

Regulation 5

## DAILY RATES OF PAY—OTHER RANKS

*A—Warrant Chief Petty Officers and non-commissioned officers of or above the rank of sergeant and Petty Officer*

Rank and appointment	Group A Class I tradesmen	Group B Class I tradesmen	Other tradesmen and non-tradesmen
	\$ c.	\$ c.	\$ c.
Warrant Officer, Class I ...	—	—	7 66
Chief Petty Officer, Class I ...	—	—	7 06
Warrant Officer, Class II (RQMS) ...	—	—	7 06
Warrant Officer, Class II ...	7 18	7 06	6 76
Chief Petty Officer, Class II ...	7 18	7 06	6 76
Staff Sergeant ...	6 55	6 47	6 17
Petty Officer, Class I ...	6 55	6 47	6 17
Sergeant ...	6 12	6 00	5 70
Petty Officer, Class II ...	6 12	6 00	5 70

*B—Corporals and Leading Seaman and below : Tradesmen*

Rank	Classes B IV and C III	Classes B III and and C II	Classes A III B II and C I	Classes A II and B I	Class A I
	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.
Corporal ...	4 22	4 46	4 70	4 88	5 12
Leading Seaman ...	4 22	4 46	4 70	4 88	5 12
Lance-Corporal ...	3 42	3 66	3 90	4 08	4 32
Able Seaman ...	3 42	3 66	3 90	4 08	4 32
Private ...	3 14	3 32	3 56	3 70	3 98
Ordinary Seaman ...	3 14	3 32	3 56	3 70	3 98

*C—Corporals and Leading Seamen and below : Non-tradesmen*

Rank	Recruit	After 6 months' service with satis- factory progress	After 18 months' service with 2 military qualifica- tions or on promotion to lance corporal or to corporal	After 18 months' service with 3 military qualifica- tions	After 30 months' service with 4 military qualifica- tions
	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.
Corporal ...	—	—	4 22	4 46	4 70
Leading Seaman ...	—	—	4 22	4 46	4 70
Lance-Corporal ...	—	—	3 42	3 66	3 90
Able Seaman ...	—	—	3 42	3 66	3 90
Private ...	2 78	2 96	3 14	3 53	3 56
Ordinary Seaman ...	2 78	2 96	3 14	3 53	3 56



## CONDITIONS OF PAYMENT OF ALLOWANCES

1. An other rank is entitled to the payment of family allowance where :—
  - (a) he has reached the age of twenty-one years ;
  - (b) he is maintaining a wife or dependent child, but where an other rank on enlisting in the force was in receipt of a rate of marriage allowance in Her Majesty's military forces, he is entitled to receive that rate under these Regulations, notwithstanding the fact that he is not entitled to it under this condition.
2. An other rank who :—
  - (a) is a widower or is divorced ; and
  - (b) has custody of any of his children is entitled to draw family allowance.
3. Family allowance is payable on the conditions that it is expended currently on the maintenance of an other rank's wife and children and the other rank makes an allotment from his pay at the rate prescribed in Table V to these Regulations to be deducted from his pay.
4. An other rank in receipt of family allowance is responsible for notifying his commanding officer immediately of any change in his family circumstances which affects his dependants' entitlement.
5. An other rank is entitled to an unaccommodated rent allowance when :
  - (a) he is maintaining his wife or dependant children ; and
  - (b) he is not accommodated in married quarters provided by the Government

TABLE V

## PRESCRIBED ALLOTMENTS

						<i>Per Week</i>
						\$ c.
Warrant officer	...	...	...	...	...	} 7 56
Chief petty officers	...	...	...	...	...	
Staff sergeant and sergeant	...	...	...	...	...	} 5 04
Petty officers ...	...	...	...	...	...	
Corporal and below	...	...	...	...	...	} 2 52
Leading seamen and below	...	...	...	...	...	

## FIFTH SCHEDULE

Section 234 (3)

## RETIRED PAY, PENSIONS AND OTHER GRANTS

Short title.

1. These Regulations may be cited as the Defence (Retired Pay, Pensions and Other Grants) Regulations, 1962.

## PART I

*General*

Interpretation.

2. In these Regulations,
 

“public claim” means any public debt or disallowance, including any over-issue or advance of pay, retired pay, pension or other emoluments made through an error as to the facts; or the sum required to make good any loss, deficiency or irregular expenditure of public money, any deficiency, loss, damage or destruction of public stores, buildings or other public property of which, after due investigation no explanation satisfactory to the Governor is given by the person who is responsible for the same;

“service claim” means any service debt or the sum required to make good any loss, deficiency or irregular expenditure of service money of which after due investigation no explanation satisfactory to the Governor is given by the person who is responsible for the same;

“substantive rank” does not include brevet, honorary, local or acting rank;

“officer on the active list” means an officer of the Force before his retirement and does not include an officer who has retired and is subsequently recalled to service or re-employed, or who is a member of the reserve of officers.

(2) In the exercise of any of the functions conferred on him under these Regulations (otherwise than under Regulation 4) the Governor-General shall act in his discretion.

\* 3. A person does not have an absolute right to compensation or to Pensions, &c., retired pay, pension or other grant under these Regulations. not of right.

4. Except where otherwise provided, no person is entitled to claim Revision any retired pay, pension, or other advantage conferred by any provision of terms. of these Regulations in the event of such provision being at any time added to, varied or cancelled.

5. Any retired pay, pension or other grant awarded under these Compulsory Regulations to a person is liable to deduction on the order of the Governor deductions. to meet any public or service claim.

6. The payment of retired pay, pension or other grant awarded under these Regulations may be made provisionally or upon any other basis Payment of retired pay. and for such period as the Governor may think fit and, either generally or in any particular case or class of case, any retired pay, pension, gratuity or other grant awarded in terms of a monthly amount may be paid quarterly or monthly in arrear.

7. (1) The Governor may withhold or reduce any retired pay, pension or grant awarded under these Regulations— Power of Governor to reduce retired pay, &c. in certain cases.

(a) if he is satisfied that it was obtained by the wilful suppression of material facts or granted in ignorance of facts which, had they been known at the time of the grant, would have justified the reduction or withholding thereof; or

(b) if the person to, or in respect of whom such retired pay, pension or grant is awarded is sentenced to death or to any term of imprisonment by any court for any crime or offence, or is in the opinion of the Governor unworthy of a grant from public funds.

(2) Where any retired pay, pension, or other grant has been withheld or reduced under the provisions of these Regulations, the Governor may, at any time, if in any case he considers it equitable so to do, grant or restore the whole retired pay, pension, or grant or a portion thereof.

8. (1) No retired pay, pension, or other grant shall be awarded to a person who, having been adjudicated a bankrupt or declared insolvent by a judgment of a court has not obtained his discharge from such adjudication or declaration. Retired pay, &c., to cease on bankruptcy.

(2) When any person to whom retired pay, pension, or other grant has been awarded under these Regulations is adjudicated a bankrupt or is declared insolvent by a judgment of a court, then such retired pay, pension or other grant shall forthwith cease.

(3) Notwithstanding the provisions of paragraph (2) of this regulation, the Governor may, from time to time, during the remainder of the life of such member or during such shorter period or periods, either continuous or discontinuous, as he thinks fit, cause all or any part of the moneys to which such member would have been entitled by way of retired pay, pension or other grant, had he not become a bankrupt or insolvent, to be paid to, or applied for the maintenance and personal support of, all or any, to the exclusion of the other or others, of the following persons, namely, such member himself and any wife, child or children of his, in such proportions and manner as the Governor thinks proper and such moneys shall be paid or applied accordingly; moneys applied for the discharge of the debts of the member or pensioner are, for the purpose of this paragraph, to be regarded as applied for his benefit.

(4) When a person to whom any retired pay, pension or other grant has not been awarded or whose retired pay, pension or other grant has ceased under the provision of this regulation, obtains a discharge from his bankruptcy or insolvency as the case may be, retired pay, pension or other grant may be awarded or restored to him as the case may be with effect from the date of such discharge.

Power to dispense with probate.

9. Where a person to whom any payment could have been made under these Regulations before his death dies before the payment is made, and the amount unpaid does not exceed five hundred dollars, the amount so unpaid may be paid to the personal representative of the deceased person without probate or other proof of title or may be paid or distributed to or among the persons appearing to the Governor to be the persons beneficially entitled to the personal estate of the deceased person, or to or among any one or more of such persons, and in determining the persons to whom and the proportions in which the amount so unpaid shall be paid or distributed, the Governor may have regard to any payments made or expenses incurred by any such person for or on account of the funeral of the deceased person.

Service of a foreign power

10. If a person enters the service of a foreign power without the consent of the Governor, or, if he continues in such service after the consent is withdrawn, he is liable to have his retired pay or pension, as the case may be, suspended or withheld as the Governor may decide.

## PART II

### OFFICERS

Compulsory retirement.

11. It shall be compulsory for officers to retire on attaining the following ages, that is to say—

- A colonel or brigadier at the age of 55
- A lieutenant-colonel at the age of 50
- A major or lower rank at the age of 47.

12. (1) An officer who retires within two years of the compulsory age for retirement in his rank and whose reckonable service is equal to or greater than the standard service period set out in paragraph (3) of this regulation, may be granted retired pay calculated in accordance with the provisions of paragraph (2) of this regulation. Retirement on retired pay at full rate.

(2) Retired pay at full rate shall be calculated on the basis of seven days pay at the average rate in issue to the officer over the three years immediately preceding the date of retirement for each year of reckonable service.

(3) The standard periods of service for the purpose of qualifying for retired pay shall be as set out in the following scale :—

<i>Rank on retirement</i>	<i>Standard period of service</i>
Lieutenant ... ..	} 22 years
Sub-Lieutenant ... ..	
Captain ... ..	} 22 years
Lieutenant ... ..	
Major ... ..	} 24 years
Lieutenant Commander ... ..	
Lieutenant-Colonel ... ..	} 26 years
Commander ... ..	
Colonel ... ..	} 26 years
Captain ... ..	

13. An officer permitted to retire at his own request before the compulsory retirement age for his rank, with at least 20 years qualifying service may be granted retired pay as follows :— Early retirement at officer's request.

- (a) if he is within two years of the compulsory age for his retirement, the award shall be computed as if he had retired in the circumstances mentioned in regulation 16;
- (b) if otherwise, the award shall be computed at the rate for which he would have been eligible had he continued to serve in his substantive rank on the date of his retirement until he retired at the compulsory retirement age for that rank, less one deduction of the scale laid down in regulation 18 for each period of three months or part of a period of three months by which the difference between his age on retirement and the compulsory retirement age limit exceeds two years, with a further deduction of 10 per cent. from the amount so calculated.

14. (1) Subject to sub-paragraph (2) an officer who is invalided from the Force before the compulsory retirement age for his rank, with at least ten years qualifying service may be awarded retired pay as follows :— Retired pay on being invalided.

- (a) if he has twenty or more years qualifying service, the award shall be computed as if he had retired in the circumstances mentioned in regulation 16;
- (b) if his qualifying service is less than twenty years the award shall be that for which he would have been eligible under sub-paragraph (a) had he completed twenty years qualifying service and then retired in the rank of major (or in his existing rank, if higher), less a deduction of twice the amount laid down in regulation 18 for each period of three months or part of a period of three months by which his qualifying service falls short of twenty years.

(2) Where the circumstances leading to an officer's being invalided out of the Force are due to his own fault or to causes within his control, the grant and amount of award (not exceeding the amount which might otherwise have been awarded under this regulation) shall be determined by the Governor as he thinks fit.

Retirement in the interests of the service.

15. An officer who is retired or called upon to retire or resign on the grounds of the interest of the Force, and not due to causes within his own control, and who has had at least twenty years qualifying service, may be granted retired pay as if he had retired in the circumstances mentioned in regulation 16.

Retired pay where reckonable service less than standard service period.

16. Where upon the date of an officer's compulsory retirement his reckonable service is less than the standard service period for his rank for retired pay purposes, he may be awarded retired pay reduced by one deduction according to the table set out in regulation 18, for each period of three months or part of a period of three months of the deficiency.

Retirement for misconduct, &c.

17. An officer who is retired or called upon to retire or resign for misconduct, or who is cashiered or dismissed from the Force, and who has at least twenty years qualifying service, may be granted, if the Governor so decides, a compassionate award of retired pay at such rate as he may determine, but not in any event exceeding 90 per cent. of the retired pay rate which would have been admissible had he retired at his own request.

Scale of deductions.

18. For the purpose of the computation of retired pay when the officer's reckonable service is less than the standard service period set out in regulation 12, the scale of deductions is as follows :—

<i>Rate of retired pay</i>	<i>Each deduction</i>
Above \$3,840 a year ... ..	\$48.00 a year
\$3,840 and above \$2,880 a year ... ..	\$36.00 a year
\$2,880 and above \$1,920 a year ... ..	\$24.00 a year
\$1,920 and above \$1,440 a year ... ..	\$18.00 a year
\$1,440 and above \$960 a year ... ..	\$12.00 a year
\$960 and below ... ..	\$ 5.00 a year

Deductions shall be made successively until the number of deductions due to be made has been completed, and each deduction in turn shall be of the amount appropriate to the rate remaining after the preceding deduction.

Terminal grants.

19. (1) An officer awarded retired pay under this Part of these Regulations (otherwise than under regulation 17) may in addition, be awarded a terminal grant in accordance with the following scale :—

Majors, Lieutenant- Commanders and below	an amount equal to four times the annual rate of retired pay.
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Lieutenant Colonels, Commanders	an amount equal to three and one half times the annual rate of retired pay.
Colonels, Captains	an amount equal to three times the annual rate of retired pay.

(2) Where an officer, has been granted a compassionate award of retired pay under Regulation 17 the Governor may in his discretion award a compassionate gratuity not exceeding three times the annual rate of the compassionate award of retired pay.

20. An officer (other than an officer of the quartermaster category) retiring and ineligible for retired pay may be granted, at the cessation of his service, a gratuity in accordance with the following provisions :—

(a) an officer—

- (i) who has retired at his own request or upon reaching the compulsory retirement age for his rank or who is retired or called upon to retire or resign on the grounds of the interest of the Force, and not due to causes within his own control, and
  - (ii) who has had at least ten years qualifying service, may be granted a gratuity of an amount equal to forty-two days pay at the average rate in issue to the officer over the three years immediately preceding the date of retirement for each year of reckonable service;
- (b) an officer who is invalided from the Force may be granted a gratuity of an amount equal to sixty-one days pay at the average rate in issue to the officer over the three years immediately preceding the date of retirement for each year of reckonable service;
- (c) an officer who is retired or is called upon to retire or resign or who is cashiered or dismissed from the Force may be granted, if the Governor so decides, a compassionate gratuity at such rate as the Governor may determine but not in any event exceeding 90 per cent. of the gratuity which would have been admissible had he retired at his own request.

Gratuity may be granted for service prematurely terminated.

21. Subject to the conditions set out, the following periods may be included in assessing the qualifying service of an officer for the purposes of this Part of these Regulations :—

- (a) paid commissioned service in the Force or previous service in Her Majesty's military forces;
- (b) unforfeited paid colour service which would be service admissible for a soldier's pension under Part III of these Regulations to the following extent—
  - (i) service as a warrant officer, Class 1—in full;  
Chief Petty Officer, Class I;
  - (ii) service in any other rank—one half.

Qualifying service of an officer.

22. Service preceding a five-year interval in service shall not be included for the purpose of assessing qualifying service under this Part of these Regulations unless specially allowed by the Governor in exceptional circumstances, and eligibility to count such service shall normally be determined at the time service is resumed.

Service prior to a five-year interval not normally counted.

Reckonable service under Part II.

23. Reckonable service for service retired pay shall be so much of the officer's qualifying service as was given after he attained the age of twenty-one years; but where the officer served in the ranks before he was commissioned his reckonable service as another rank given before the age of twenty-one may be included provided that the total service, so reckoned, is not greater than would have been reckonable had he been commissioned at the age of twenty-one.

### PART III

#### OTHER RANKS

Full pension awarded after twenty-two years service.

24. An other rank may be awarded, upon completion of twenty-two years reckonable service, a full pension calculated in accordance with the provisions of Regulation 25.

Calculation of full pension.

25. A full pension is an amount payable in respect of each calendar month equal to seven days pay at the average rate in issue to the other rank over the three years immediately preceding the date of completion of twenty-two years service, discharge or invaliding out of the service, as the case may be.

Reduced pension after eighteen years service.

26. An other rank who has completed a minimum of eighteen years reckonable service may be awarded a pension in accordance with the provisions of Regulation 25, but subject to the following modifications:—

- (a) the pension shall be calculated at the date of discharge as if the other rank had twenty-two years reckonable service;
- (b) a deduction shall be made at the rate of ten per cent. (upon the amount remaining after the preceding deduction has been made) for each year or part of a year by which the reckonable service falls short of twenty-two years.

Gratuity may be granted for service prematurely terminated.

27. (1) Subject to this Regulation, a gratuity of an amount equal to fourteen days pay at the average rate in issue over the preceding three years for each year of reckonable service may be awarded to—

- (a) an other rank discharged (other than for misconduct) after completing a period of twelve years or more but not exceeding eighteen years reckonable service;
- (b) an other rank invalided from the regiment after completing a period of four years or more but not exceeding eighteen years reckonable service.

(2) Where the circumstances leading to an other rank being invalided out of the Force are due to his own fault or to causes within his control, the grant or amount of award shall be determined by the Governor as he thinks fit.

(3) Where an other rank who is eligible for the award of a gratuity under this Regulation had immediately prior to his enlistment in the regiment completed at least three years continuous service as a non-commissioned officer—

- (a) in the Volunteer Defence Force, or

(b) in the capacity of instructor in a Cadet Corps of the Territory, his gratuity is calculated as if for the reference above to "fourteen days pay" there was substituted a reference to "twenty-eight days pay".

28. An other rank who has been permitted to serve for a period exceeding twenty-two years reckonable service may, upon his final discharge, be awarded a pension calculated in respect of his full reckonable service upon the rates of pay in issue on the date on which he achieved twenty-two years reckonable service.

Pension where service exceeds twenty-two years.

29.(1) Subject to sub-paragraph (2), an other rank who has been awarded a pension under this Part of these Regulations may, in addition, be awarded a terminal grant of an amount equal to one hundred and fifty days pay at the rate in issue on the date of the discharge.

Award of terminal grant.

(2) Where the other rank's reckonable service is less than twenty-two years deductions shall be made from the terminal grant (upon the amount remaining after the preceding deduction has been made) at the rate of ten per cent. for each year or part of a year by which the reckonable service falls short of twenty-two years.

30. For the purposes of this Part of these Regulations reckonable service is—

Reckonable service under Part III.

(a) unforfeited paid colour service, after attaining the age of eighteen years, in the Force or previous service in Her Majesty's military forces;

(b) service as an officer which would be reckoned as qualifying service for the purposes of Part II of these Regulations.

31. Service preceding a five-year interval of service shall not be included for the purpose of assessing reckonable service under this Part of these Regulations unless specially allowed by the Governor in exceptional circumstances and eligibility to count such service shall normally be determined at the time service is resumed.

Service preceding a five-year interval not normally counted.

32. If any pensioner is or becomes of unsound mind the Governor may direct that his pension, or such part of it as appears necessary for his care and maintenance, be paid to his wife, son, daughter or other person in whose care he may be or who may be responsible for the cost of his care and maintenance. The receipt of the person or persons to whom the whole or part of the pension is so paid shall be sufficient voucher and discharge for so much money as is stated thereon to have been paid.

Payment of pension of pensioner of unsound mind.

## SIXTH SCHEDULE

## ENLISTMENT AND SERVICE

## PART I

- Citation** 1. (1) These Regulations may be cited as the Defence (Enlistment and Service) Regulations, 1962.
- (2) These Regulations have effect from the 31st day of May, 1962.
- Recruiting Officers** 2. Officers of the rank of captain or corresponding rank and above who are
- (a) officers of the Force, or
- (b) officers of Her Majesty's regular forces raised in the United Kingdom, or
- (c) officers seconded for service with the Force,
- may act as recruiting officers.
- Prescribed forms** 3. The forms set out in the First Schedule to these Regulations or forms substantially to the like effect, are the forms to be used for the purpose of the Act and these Regulations in cases to which those forms are applicable.
- Method of attestation** 4. (1) The recruiting officer, after a person offering to enlist has been given a notice paper, shall satisfy himself that the person understands the contents of the notice paper and the conditions of engagement upon which he is about to enter and he shall warn the person to be enlisted that if he knowingly makes any false answers to the questions in the attestation paper which are to be put to him, he is liable to be punished as provided by the Act.
- (2) The recruiting officer shall satisfy himself that the person offering to enlist is, or as the case may be, is not, over the apparent age of eighteen years.
- (3) The recruiting officer shall read or cause to be read to the person in a language which he understands, the questions set out in the attestation paper and shall ensure that the answers are duly recorded thereon.
- (4) The recruiting officer shall ask the person to make and sign the declaration set out in the attestation paper as to the truth of the answers and shall administer to him the oath of allegiance set out in the attestation; but if the person objects to be sworn and states as a ground for his objection either that he has no religious belief or if it is not reasonable to administer an oath to such a person in the manner appropriate to his religious belief, the person shall be required to make a solemn affirmation instead of taking the oath.
- (5) Upon signing the declaration in the attestation paper and upon taking the oath, or as the case may be, making the solemn affirmation, the person shall become a member of the Force and subject to military law.

(6) The recruiting officer shall by signature confirm on the attestation paper that the requirements of the Act and these Regulations have been duly complied with and shall deliver the attestation paper duly dated to the appropriate officer in charge of the records who shall on receiving the attestation paper sign it in the appropriate place and thereby signify that the person is finally approved for service.

(7) An other rank on being finally approved for service shall be entitled to receive a certified true copy of the attestation paper.

5. (1) In relation to the provisions of the Act specified in the first column of Part I of the Second Schedule to these Regulations and for the purposes specified opposite thereto in the second column thereof, the officer specified in the third column thereof shall be the competent military authority.

(2) The officers set out in the second column of Part II of the said Second Schedule shall in pursuance of subsection (3) of section 15 and section 20 of the Act, be competent military authorities for the purpose of authorising the discharge of an other rank for the reasons set out in the first column thereof.

6. An other rank on enlistment shall be appointed to a unit and may be transferred from one unit to another by order of the Commander if it is in the interest of the Force so to do.

7. (1) The terms of service for which in accordance with subsection (2) of section 12 of the Act, a person who has apparently attained the age of eighteen years may be enlisted shall be

- (a) a term of six months, 1, 2, 3, 4, 5 or 6 years of colour service; or
- (b) a term of 6 years being as to 3 years a term of colour service and as to the remainder, a term of service in the reserve.

(2) The terms of service for which in accordance with subsection (3) of section 12 of the Act, a person who has not apparently attained the age of eighteen years may be enlisted shall be one of the following, being a term beginning on the date of his attestation and ending with the expiration of a period of

- (a) 6 years beginning with the day on which he attained the age of eighteen years, being a term of colour service; or
- (b) 9 years beginning with the date on which he attained the age of eighteen years being as to 6 years, a term of colour service and as to the remainder, a term of service in the reserve.

8. The period or periods of colour service for which an other rank may re-engage in accordance with the provisions of subsection (1) of section 13 of the Act shall be not more than 1, 2, 3 or 6 years at a time up to a maximum of 12 years and thereafter for periods of 1, 2, or 3 years at a time, until he has completed 22 years colour service; but where an other rank has immediately prior to enlisting in accordance with these Regulations served as an other rank in Her Majesty's military forces or the West India Regiment, the continuous period of such paid colour service shall, for the purposes of section 13 of the Act and this regulation, be treated as colour service under the Act.

Continuance in  
the service

9. For the purpose of computing the period of 22 years colour service for the purpose of subsection (2) of section 13 of the Act, an other rank who immediately before he enlisted into the Force was serving in Her Majesty's military forces or the West India Regiment shall be entitled to count any continuous period of such paid colour service as colour service.

Discharge  
certificates

10. (1) The particulars to be contained in a certificate of discharge are:—

- (a) number;
- (b) name, including christian or forenames;
- (c) date and place of enlistment;
- (d) physical description of the other rank on leaving colour service;
- (e) rank of the other rank on leaving colour service;
- (f) assessment of conduct and character on leaving colour service with the signature of the officer making the assessment;
- (g) date of transfer to the reserve;
- (h) rank on transfer to the reserve;
- (i) date of discharge;
- (j) rank on discharge;
- (k) reason for discharge;
- (l) total service on discharge, both colour service (including where appropriate prior service in accordance with regulations 8 and 9), and service in the reserve; and
- (m) signature of issuing officer.

(2) The particulars specified in paragraphs (g) and (h) shall be omitted in the case of an other rank who has not served in the reserve.

Officers authorised  
under section 18  
of the Act to  
reduce warrant  
officers and  
non-commissioned  
officers

11. The Commander is authorised to reduce a warrant officer, non-commissioned officer or corresponding rank in accordance with the provisions of section 18 of the Act.

## FIRST SCHEDULE

### FORM I

#### TRINIDAD AND TOBAGO DEFENCE FORCE

#### NOTICE PAPER

Notice to be given under section 11 of the Defence Act, 1962, to a person offering to enlist in the Trinidad and Tobago Defence Force.

This paper sets out the questions you will be required to answer before the officer who will attest you for the Trinidad and Tobago Defence Force, and the general conditions of the various engagement.

Under the provisions of sections 24 and 63 of the Defence Act, 1962, if any person knowingly makes a false answer to any question contained in the attestation paper he is liable to punishment.

Questions to be put to the recruit before enlistment.

- Q. 1. What is your full name ?
- Q. 2. What is your address ?
- Q. 3. State day, month and year of your birth.
- Q. 4. Where were you born ?
- Q. 5. What is your nationality now ?
- Q. 6. What was the nationality at birth of : (a) yourself ? (b) your father ? (c) your mother ? (d) your wife/husband ?
- Q. 7. Are you single, married, widowed, divorced ?
- Q. 8. How many children are dependent on you ?
- Q. 9. What is your trade or calling ?
- Q. 10. Do you belong to, or have you ever served in, Her Majesty's naval, military or air forces, in any Commonwealth force or the West India Regiment, or in any police force ? If so, state which, and the periods of service and the reasons for dates of discharge.
- Q. 11. Have you ever been cashiered, dismissed, discharged with disgrace, with ignominy or for misconduct from Her Majesty's naval, military or air forces or from any Commonwealth force, the West India Regiment or from any police force ?
- Q. 12. Have you truly stated the whole, if any, of your previous service ?
- Q. 13. Have you at any time been found guilty by any civil court of any offence ? If so, give particulars.
- Q. 14. Have you ever been rejected for service in Her Majesty's naval, military or air force, in any Commonwealth force, the West India Regiment or in any police force ? If so, on what grounds ?
- Q. 15. Are you willing to be vaccinated or re-vaccinated ?
- Q. 16. Have you received a notice paper setting out the questions to be answered on attestation, and the general conditions of the engagement to be entered into, and do you understand the contents of the notice paper and wish to be enlisted ?
- Q. 17. Are you willing to serve Her Majesty in the Trinidad and Tobago Defence Force or in such other of Her Majesty's military forces as may be raised under the Defence Act, 1962, if Her Majesty shall so long require your services, for—
- a term of.....years with the colours ; or
- a term of.....years with the colours and.....years in the reserve ;
- or
- if you are a boy (that is if your age is under 18 years) the period from your date of attestation up to the date on which you attain the age of 18 years and thereafter for either—
- a period of 6 years with the colours ; or
- a period of 6 years with the colours and 3 years in the reserve.

You will be required to make the following declaration :

"I.....do solemnly declare that the above answers made by me to the above questions are true, and that I am willing to fulfil the engagements made." On signing the declaration and taking the oath or making a solemn affirmation you will become an other rank of the Trinidad and Tobago Defence Force subject to military law under the Defence Act, 1962.

#### GENERAL CONDITIONS OF ENGAGEMENT

1. You will be required to engage to serve Her Majesty in the Trinidad and Tobago Defence Force or in such other of Her Majesty's military forces as may be raised under the Defence Act, 1962, for such time as is agreed on attestation if Her Majesty shall so long require your services. You will be liable to serve in any part of the Territory and may be ordered to serve outside the Territory.

2. You may engage to serve :—

- (a) for a term of 6 months, 1, 2, 3, 4, 5 or 6 years, with the colours when any of these terms of service are currently open ;
- (b) for a term of 3 years with the colours and 3 years in the reserve ;
- (c) if you are under the age of 18 years, for a term up to your 18th birthday and thereafter for a term—
  - (i) of 6 years with the colours ; or
  - (ii) 6 years with the colours and 3 years in the reserve.

3. At any time within two years of your completing your colour service, you may apply to serve for a further term with the colours until you have completed a continuous period of 22 years with the colours.

4. After you have completed 22 years with the colours, you may apply to continue to serve with the colours from year to year and during such continued service you may give three months' notice to claim your discharge.

5. If at the time you enlist you are serving in Her Majesty's military forces or the West India Regiment you will be discharged from those forces but you will be entitled to count your prior continuous service in those forces in computing the period of colour service for re-engagement and continuation under paragraphs 3 and 4 for computing your pension.

6. You will be enlisted in the rank of private or corresponding or such other rank as the Commander, having due regard to any rank you have held either in Her Majesty's military Forces or in the West India Regiment, may decide. Subsequent promotion will depend on vacancies in the establishment but if you had prior service in Her Majesty's military forces or the West India Regiment such service will be considered.

7. When you have been attested you will be subject to the provisions of the Defence Act, 1962, and you will be required to carry out whatever duties may be ordered by those in authority over you.

8. No guarantee can be given that you will be employed on any particular duties but where you are enlisted with a view to performing particular duties or to being trained in a particular trade, you will be employed on these duties or, as the case may be, trained and employed in that trade, so far as the requirements of the service permit.

9. Where you are enlisted with a view to being employed on particular duties or in a particular trade and through no fault of your own you fail to qualify or are unable to be employed on those duties or in that trade, except for periods of limited duration, you may apply for discharge which will be granted to you so long as the requirements of the service permit. Employment in a trade depends on passing a specified trade test and there being a vacancy in the trade.

10. If you are enlisting for the first time in the Trinidad and Tobago Defence Force or such other of Her Majesty's military forces as may be raised from under the Defence Act, 1962, and have not had any prior service in Her Majesty's military.

forces you shall be entitled to claim your discharge subject to sections 14 and 21 of the Defence Act, 1962, at any time after twelve weeks and within six months of your attestation of payment of a sum not exceeding one hundred dollars.

11. In computing your service for the purpose of discharge, re-engagement or transfer to the reserve, periods during which you have been away from your duty because of imprisonment, desertion or absence without leave exceeding twenty-eight days will be excluded and, further, any period which you are ordered by a court-martial to forfeit, will be disregarded.

12. You may be discharged at any time during your engagement by order of a competent military authority as a result of irregularities concerning your enlistment, for misconduct, for unfitness on medical grounds or for the benefit of the public service.

13. If at any time when your term of colour service expires there is a state of war, insurrection or hostilities, or a public emergency, you may be retained and your service prolonged for such further period as a competent military authority may direct.

14. If you are transferred to the reserve at the end of your colour service you will be liable when in the reserve to be called out :—

(a) by proclamation if a state of war has been declared or insurrection or hostilities or public emergency, in which event you are liable to serve for the whole of the remaining unexpired term of service in the reserve and such further period not exceeding twelve months as an other rank may be retained under the Defence Act, 1962 ;

(b) on temporary service at any time when the Governor thinks necessary.

15. If at the time you are due to be discharged or transferred to the reserve you are liable to be proceeded against for an offence against service law, your discharge or transfer to the reserve will be postponed until after the proceedings have been concluded.

16. If at the time when you are entitled to be discharged or transferred to the reserve you are serving out of the Territory in which you were enlisted, you will be sent to that Territory free of all costs. In certain circumstances you may be sent free of costs to a place in The West Indies which you select as your residence.

FORM 2

THE TRINIDAD AND TOBAGO DEFENCE FORCE ATTESTATION PAPER

No.....Nature of Engagement.....years  
with the colours.....years in the reserve.

General Instructions for completing the Attestation Paper

1. The recruit will first be given a copy of the notice paper.
2. Any alterations in this attestation paper will be initialled in ink by the recruiting officer.
3. The recruiting officer will delete all paragraphs referred to types of engagement which are not appropriate.

Under the provisions of sections 24 and 63 of the Defence Act, 1962, if a person knowingly makes a false answer to any of the questions contained in the attestation paper, he renders himself liable to punishment.

Questions to be put to the recruit before Enlistment

- |   |   |
|---|---|
| Q. 1. What is your full name ? (a) Christian or Forenames (b) Surname |   |
| Q. 2. What is your address ?  | Q. 3. State the day, month and year of your birth |
| Q. 4. Where were you born ?   | Q. 5. What is your nationality now ?              |

Q. 6. What was the nationality at birth of ?

(a) yourself ?

(b) your father

(c) your mother ?

(d) your wife/husband ?

Q. 7. Are you single, married, widowed, divorced ?  
(State which)

Q. 8. How many children are dependent on you ?

Q. 9. What is your trade or calling ?

Q.10. Do you belong to, or have you ever served in, Her Majesty's naval, military or air force, or the West India Regiment or in any Commonwealth force, or in any Police Force ? If so, state which, and the periods of service and the reasons for and dates of discharge.

Q. 11. Have you ever been cashiered, dismissed, discharged with disgrace, with ignominy or for misconduct from Her Majesty's naval, military or air forces or from any Commonwealth force or from any police force ?

Q. 12. Have you truly stated the whole, if any, of your previous service ?

Q. 13. Have you at any time been found guilty by a civil court of any offence  
If so, give particulars

Q. 14. Have you ever been rejected for service in Her Majesty's naval, military or air forces in any Commonwealth force or in the West India Regiment or in any police force ? If so, on what grounds ?

Q. 15. Are you willing to be vaccinated or re-vaccinated ?

Q. 16. Have you received a notice paper (.....) setting out the questions to be answered on attestation, and the general conditions of the engagement to be entered into ?

Do you understand the contents of the notice paper and wish to be enlisted ?

Q. 17. Are you willing to serve in the Trinidad and Tobago Defence Force or in such of Her Majesty's military forces as may be raised under the Defence Act, 1962, provided Her Majesty shall so long require your services, for ?—

a term of.....years with the colours, or

a term of 3 years with the colours and 3 years in the reserve ?

or

A.....

If you are a boy (that is if your age is under 18 years) the period from the date of your attestation up to the date on which you attain the age of 18 years and thereafter for either ?—

a period of 6 years with the colours,

or

a period of 6 years with the colours and 3 years in the reserve ?

A.....

#### SOLEMN DECLARATION

I,....., do solemnly declare that the above answers made by me to the above questions are true, and that I am willing to fulfil the engagement made.

.....  
(Date)

.....  
(Signature of Recruit)

.....  
(Signature of Witness)

(OATH TO BE TAKEN) (AFFIRMATION TO BE MADE) BY RECRUIT ON ATTESTATION

I,....., (swear by Almighty God) (do solemnly sincerely and truly declare and affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors, and that I will, as in duty bound, honestly and faithfully defend Her Majesty, her heirs and successors, in person, Crown and dignity against all enemies, and will observe and obey all orders of Her Majesty, her heirs and successors, and of the officers set over me.

CERTIFICATE OF RECRUITING OFFICER

The recruit named overleaf was cautioned by me that if he knowingly made any false answer to any of the questions overleaf he would be liable to be punished as provided in the Defence Act, 1962.

The questions overleaf were then read to the recruit in my presence.

I have taken care that he understands each question, and that his answer to each question has been duly entered.

I have taken care to see that the recruit has received a copy of the notice paper and I am satisfied that he is fully aware of the terms and general conditions of service on which he has entered.

I am satisfied from the evidence produced or the statements made by the recruit that he (has)/(has not) attained the age of 18 years.

The said recruit has made and signed the declaration and (taken the oath) (made a solemn affirmation) before me at..... on this.....day of....., 19.....

.....  
(Signature and rank)  
Recruiting Officer

Identification particulars of.....on enlistment

Apparent age.....years..... months      Eyes..... Hair.....  
(to be determined by the examining medical officer)

Height..... inches      Distinctive marks, and marks indicating congenital peculiarities of previous disease  
(without boots/shoes, to nearest 1/4 inch)

Weight ..... lb.

Height.....      Description of features.....  
(without boots/shoes to nearest lb.)

Religious denomination .....

CERTIFICATE OF MEDICAL EXAMINATION

I/We have examined this recruit in accordance with current instructions and have assessed him as follows :

Date .....

Place .....

P	U	L	H	E	E	M	S
				-	-		

.....  
(Signature(s) of medical officer(s))

## CERTIFICATE OF APPROVING OFFICER

I certify that this attestation paper of the above-named recruit is properly completed and that the required forms relative to his enlistment appear to have been complied with. I accordingly approve his enlistment in the Trinidad and Tobago Defence Force.

Date .....

Place .....

.....  
(Signature of approving officer)

## NOTES FOR RECRUITING OFFICERS

1. Insert type of engagement.
2. If the recruit has former service he is to be asked particulars of his former service, and will produce, if possible, all certificates issued on discharge. All certificates will be returned to the recruit and certificates will be conspicuously endorsed in red ink that he has been enlisted into the Trinidad and Tobago Defence Force.
3. Delete whichever is inappropriate.
4. Answer yes to appropriate question.

## SECOND SCHEDULE

## PART I

<i>Provision of the Act</i>	<i>Purpose</i>	<i>Competent military authority</i>
Section 13(1)	... Approving re-engagement ...	The commanding officer
Section 13(2)	... Approving continuance in colour service	The commanding officer
Section 14	... Prolonging service during emergency	In the Territory—the Commander; outside the Territory the commander of the force with which an other rank is serving
Section 16(2)	... Discharging an other rank when he falls to be transferred to the reserve	The commanding officer
Section 23(2)	... Receiving claim and discharging a person who has not made a declaration on attestation	The commanding officer

## PART II

<i>Reason</i>	<i>Competent military authority</i>
For inefficiency during the first 6 months of service ...	The commanding officer
For inefficiency at any other time ...	The Commander
Service no longer required ...	The Commander
Conviction of civil court ...	The Commander
Medically unfit ...	The commanding officer
On compassionate grounds ...	The Commander
On purchase under section 21 of the Act ...	The commanding officer
On being unable to qualify for a trade ...	The commanding officer
For misrepresentations and allied offences on attestation	The Commander
Having been attested but not finally approved ...	The commanding officer
Having been improperly enlisted ...	The commanding officer
For the purpose of being appointed to a Commission ...	The Commander

<i>Reason</i>	<i>Competent Military Authority</i>
Having claimed discharged after 3 months notice (applicable to an other rank serving beyond 22 years reckonable service) ... ..	The commanding officer
A person having enlisted as a potential officer on his own request failing to qualify for selection as an officer cadet ... ..	The commanding officer

SIXTH SCHEDULE—PART II

1. (1) These Regulations may be cited as the Defence (Officers) Regulations, Short title and commencement.  
1962. (2) These Regulations have effect from the 31st May, 1962.
2. No person shall be commissioned as an officer unless— Eligibility.
  - (a) he is a British subject ; and
  - (b) has been resident in any place in the Commonwealth or the Eastern Caribbean for at least two years.
3. (1) Subject to this regulation, officers will normally be eligible for con- Eligibility for promotion.  
sideration for promotion to substantive ranks as follows :—
  - (a) in the case of officers attached to the land forces—
    - (i) to lieutenant, after two years commissioned service ;
    - (ii) to captain, after four years commissioned service as a lieutenant ;
    - (iii) to major, after seven years commissioned service as a captain ;
  - (b) in the case of officers attached to the coast guard—
    - (i) to sub-lieutenant, depending on his progress while under training ;
    - (ii) to lieutenant, after eighteen months commissioned service as sub-lieutenant ;
    - (iii) to lieutenant-commander, after nine years commissioned service as a lieutenant.

(2) Commissioned service in Her Majesty's Military Forces or the West India Regiment immediately prior to commission under this Act shall count as service for the purpose of these Regulations.
4. (1) An officer is eligible for substantive promotion to the ranks of captain, Promotions.  
major or corresponding rank if he has passed the appropriate promotion examination and has been recommended for promotion by the Commander.
  - (2) A promotion under paragraph (1) shall not have effect unless—
    - (a) it has been confirmed by the Governor on the recommendations of the Board set out under section 6 of the Act ;
    - (b) it has been published in the *Royal Gazette*.
5. The Commission of an officer into the Force may, on the recommendations Antedating of commissions.  
of the Board set up under section 6 of the Act, be antedated.
6. An officer may be promoted to acting or paid acting rank to fill a vacancy Acting ranks.  
in the establishment of any unit.
7. (1) The Governor may appoint a person to an honorary rank and under Honorary rank.  
such conditions as he may think fit.
  - (2) A person appointed under paragraph (1) to a commission is not entitled to any pay, allowance, retired pay, pension, gratuity or other benefit.

*Perenth* *S. G. G. G.*

19/67

Passed by the House of Representatives this twenty-seventh day of July, in the year of Our Lord, one thousand nine hundred and sixty-two.

J. P. OTTLEY

*Acting Clerk of the House of Representatives*

Passed by the Senate this seventh day of August, in the year of Our Lord, one thousand nine hundred and sixty-two.

J. E. CARTER

*Acting Clerk of the Senate*