

**3. Definitions.—** In this Act, unless the context otherwise requires.

- (i) "active service", as applied to a person subject to this Act, means the time during which such person—
  - (a) is attached to, or forms part of, a force which is engaged in operations against an enemy or,
  - (b) is engaged in military operations in, or is on the line of march to, a country or place wholly partly occupied by an enemy, or
  - (c) is attached to or forms part a force which is in military occupation of a foreign country;
- (ii) "civil offence" means an offence which is triable by a criminal court;
- (iii) "civil prison" means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894 (IX of 1894), or under any other law for the time being in force;
- (iv) ("Chief of the Army Staff" means the officer commanding the regular Army;)<sup>1</sup>
- (v) "Commanding officer", when used in any provision of this Act, with reference to any separate portion of the regular Army or to any department thereof, means the officer whose duty it is under the regulations of the regular Army, or in the absence of any such regulations, by the custom of the service to discharge with respect to that portion of the regular Army or that department, as the case may be, the functions of a commanding officer in regard to matters of the description referred to in that provision;
- (vi) "corps" means any separate body of persons subject to this Act, which is prescribed as a corps for the purposes of all or any of the provisions "of this Act;
- (vii) "court-martial" means a court-martial held under this Act;
- (viii) "criminal court" means a court of ordinary criminal justice in any part of India.
- (ix) "department" includes any division or branch of a department;
- (x) "enemy" includes all aimed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to military law to act;
- (xi) "the Forces" means the regular Army, Navy and Air Force or any part of any one or more of them;
- (xii) "junior commissioned officer". means a person commissioned, gazetted or in pay as a junior commissioned officer in the regular Army or the Indian Reserve Forces, and includes a person holding a junior commission in the Indian supplementary Reserve Forces, or the Territorial Army ( )<sup>2</sup> who is for the time being subject to this Act;

<sup>1</sup> Substituted by Act No.19 of 1955.

<sup>2</sup> Omitted by Act No.13 of 1975.

- (xiii) "military custody" means the arrest or confinement of a person according to the usages of the service and includes naval or air force custody;
- (xiv) "military reward" includes any gratuity or annuity for long. service or good conduct good service pay of pension, and any other military pecuniary reward;
- (xv) "non-commissioned officer" means a person holding a non-commissioned rank or an acting non-commissioned rank in the regular Army or the Indian Reserve Forces, and includes a non-commissioned officer or acting non-commissioned officer of the Indian supplementary Reserve Forces or the Territorial Army ( )' who in for the time being subject to this Act;
- (xvi) "notification" mean: - a notification published in the Official Gazette,
- (xvii) "offence: "mean" any act or omission punishable under 'this Act and includes a civil offence a, here in before defined,
- (xviii) "officers" means a person commissioned, gazetted or in pay as an officer in the regular Army, and include. —
- (a) an officer of the Indian Reserve Forces.
- (b) an officer holding a commission in the Territorial Army granted by the President with designation of rank corresponding to that of an officer of the regular Army who is for the time being subject to this Act,
- (c) an officer of the Army in India Reserve of Officers who is for the time being subject to this Act;
- (d) an officer of the Indian Regular Reserve of Officers who is for the time being subject to this Act.
- (e) (Omitted)<sup>1</sup>
- (f) in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the Navy or Air Force; but does not include a junior commissioned officer, warrant officer, petty officer or non-commissioned officer;
- (xix) "prescribed" means prescribed by rules made under this Act;
- (xx) "provost-marshal means a person appointed as such under section 107 and include, any of his deputies or assistants or any other person legally exercising authority under him or on his behalf,
- (xxi) "regular Army" means officer's :junior commissioned officers, warrant officers, non-commissioned officers and other enrolled persons who, "by their commission, warrant, terms of enrolment or otherwise, are liable to render continuously for a term military service to the Union in any part of the world, including; persons belonging to the Reserve force and the Territorial Army when called out on permanent service:
- (xxii) "regulation" includes. a regulation, made under this Act;

<sup>1</sup> Omitted by the Adaptation of Laws (No.3) Order, 1956.

(xxiii) "superior officer", when used in relation to a person subject to this Act, includes a junior commissioned officer, warrant officer and a non-commissioned officer, and, as regards persons placed under his orders, an officer, warrant officer, petty officer and non-commissioned officer of the Navy or Air Force;

(xxiv) "warrant officer" means a person appointed, gazetted or in pay as a warrant officer of the regular Army or of the Indian Reserve Forces, and includes a warrant officer of the Indian Supplementary Reserve Forces or of the Territorial Army ( )<sup>1</sup> who is for the time being subject to this Act;

(xxv) all words (except the word India)<sup>2</sup> and expressions used but not de-fined in this Act and defined in the Indian Penal Code (Act XLV of 1860) shall be deemed to have the meanings assigned to them in that Code.

## NOTES

1. Clause (I): *Enemy*.—[see clause \(x\)](#)

2. *Persons subject to the AA may be on active service even before embarkation for the seat of operations if the circumstances are such that they can reasonably be held to be attached to or form part of such a force as is specified in this clause or to be on the line of march to a country or place wholly or partly occupied by enemy. A person is on the line of march from the time he parades for the original march until he arrives at his ultimate destination.*

3. *Termination of a state of war between the Union and an occupied enemy country would not ipso facto prevent troops occupying that country from being on active service for the purposes of this clause provided they are in fact occupying that foreign country. In order to ascertain whether such troops are 'on active service' or not, regard must be had to all the circumstances involved. Where there is any doubt as to whether or not troops are on active service for the purposes of this clause, a declaration should be made under [AA.s.9](#).*

4. Clause (ii) *Offence*.— [see clause \(xvii\)](#). Criminal court: [see clause \(viii\)](#).

5. Clause (iii).— [See notes to AA.s.24](#).

6. Criminal prisoner means any prisoner duly committed to custody under the writ, warrant or order of any court or authority exercising criminal jurisdiction "or by order of a Court-Martial: (The Prisons Act 1894,s.3(2)).

7. Clause (iv).— The term "Commander in Chief was replaced by the term 'Chief of the Army Staff w.e.f. 7 May 55; see The Commander-in-chief (change of Designation) Act, 1955 (No.19 of 1955) and Govt, of India, Ministry of Defence Notification SRO 2/E dated 7 May 55. Regular Army.—[see clause \(xxi\)](#).

8. Clause (v).— An officer as defined in clause (xviii) can be a Commanding Officer within the meaning of this clause. It has been left to the Regs or in their absence to the custom of the service to specify the officer whose duty it is to discharge the functions of a commanding officer in regard to any particular provisions; see Regs Army and notes to [AA.s.116](#).

9. Clause (vi): *Prescribed*.—[see AR.187](#).

10. Clause (vii).—[see notes to AA.s.60](#).

11. Clause (viii): *India*.—[see Art. \(1\) of the Constitution](#). See also notes to clause (ii) above.

12. Clause (x)—The term "enemy" would include a soldier "running amok" see [Regs Army para 348](#).

Omitted by the Adaptation of Laws (No.3) Order, 1956. Added by Act 13 of 1975.

13. Clause (xi).— The term 'the Forces' means 'the Armed Forces of the Union referred to in Art [72\(2\)](#) of the Constitution.

14. Clause (xii). — Regular Army: [see clause \(xxi\)](#)  
"Commissioned, gazetted or in pay": existence of any one of these conditions makes him subject to the AA as a JCO.

15. Clause (xiii).— As to arrest and confinement and release therefrom, see [Regs Army paras 391 to 397](#).

16. 'Confinement' would include confinement in the unit quarter guard or detention in barracks while undergoing a sentence of imprisonment under [AA.s.80](#) or [169\(3\)](#) or detention under [AA.s.80](#).

17. Clause (xiv). — A war gratuity is thus a military reward but a medal or decoration is not.

18. A military reward can be forfeited in the circumstances specified in the rules governing it but not as a court-martial sentence.

19. Clause (xv). - As an acting NCO is legally a NCO within the meaning of this clause, the punishments specified in clauses [\(a\)](#), [\(b\)](#), [\(c\)](#) or [\(j\) of AA.s.80](#) cannot be awarded to him but he can be awarded a severe reprimand or reprimand under clause (g) of the said section or under clause (i) of [AA.s.71](#). But see [note 14 to AA.s.71](#).  
Only attested persons are eligible for non-commissioned ranks: [AA.s.16](#).

20. Clause (xvii)—Every civil offence is deemed to be an offence against the AA. See [AA.s.69](#)

21. Clause (xviii). — An officer holds a commission from the date notified in the official gazette and not from the date on which the commission is issued to him.  
For conditions prescribed under sub-clause (f) see [AR.188](#). The term 'officer' unlike the TA Act 1948, does not include a JCO,

22. Clause (xxi). — The distinction between the regular Army and other forces is that persons belonging to the regular Army are liable to serve continuously for a term in any part of the world. Reservists or TA personnel become a part of the regular Army only when called on permanent service under the circumstances provided in sub-sec, (d) and (e) of [AA.s.2\(1\)](#).

23. Clause (xxii)—The term 'regulation' would appear to include a non-statutory regulation.

24. Clause (xxiii)— Although an officer of the Navy or Air Force cannot exercise command in general over persons subject to the AA or be subject to command by such persons unless such officer is serving under prescribed conditions (clause (xviii) (f)); an officer, WO etc. of the Navy or Air Force is a 'superior officer' as regards person placed under this command.

25. Clause (xxiv). — Indian supplementary Reserve Forces: see [Note 5 to AA.s.2](#).