

48. Intoxication. — (1) Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and, if he is not an officer, be liable, subject to the provisions of sub-section (2), to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(2) Where an offence of being intoxicated is committed by a person other than an officer when not on active service or not on duty, the period of imprisonment awarded shall not exceed six months.

NOTES

1. *Intoxication may be induced by opium or any similar drug, as well as by liquor. This section creates only one single offence, viz. intoxication, and in all cases, whether the act was committed on duty or not on duty, the charge should be "intoxication". If the offence was committed on duty, or after; the accused had been warned for duty, the fact that the offence was so committed and the nature of the duty should be specified in the particulars of the charge as the character of the offence, from a military point of view, and therefore its proper punishment is materially affected by the circumstance.*

2. *Intoxication will be regarded as having the ordinary meaning attached to it in civil life i.e., what an ordinary reasonable person would consider to be such and the fact that an offender is capable or incapable of performing his duty is not a decisive or exclusive test of drunkenness or sobriety. It is, however, one of the tests which should be applied by the court.*

3. *A person suspected of being intoxicated cannot be put through any drill or test for the purpose of ascertaining his condition; ([Regs Army para 393\(b\)](#)). As such the best evidence in such a charge is the direct stated evidence of witness(s).*

4. *For instructions as to the treatment of a person in arrest for being intoxicated see [Regs Army para 393\(a\)](#).*

5. *The offence of intoxication is one which cannot be tried jointly.*

6. *Nothing can justify a person subject to AA using criminal force to or assaulting a superior, and great care is therefore enjoined to be taken to avoid bringing intoxicated persons in contact with their superiors. Mere abusive and violent language used by an intoxicated person, as the result of being taken into custody, should not be used as the ground for framing a charge of using threatening or insubordinate language to a superior officer under [AA.s.40\(b\)](#) or (c). If a court-martial is considered necessary, the charge should be framed under this section, the language being treated as in the nature of riotous conduct only, and to that extent aggravating the offence.*