

(2) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

Disposal of Property.

Order for custody and disposal of property pending trial in certain cases.

126A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Court-martial during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for disposal of property regarding which offence committed.

126B. (1) After the conclusion of a trial before any Court-martial, the Court or the officer confirming the finding or sentence of such Court-martial or any authority superior to such officer, or, in the case of a Court-martial whose finding or sentence does not require confirmation [the General Officer Commanding, Burma Army, or the officer commanding the army, army corps, division or brigade within which the trial was held,]¹ may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the Court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within the Union of Burma or not, be sent to a Magistrate in any district in which such property for the time being is, and such Magistrate shall thereupon cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the Code of Criminal Procedure.

Explanation.—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

THE BURMA ARMY SUSPENSION OF SENTENCES ACT.

Construction

1. This Act shall be construed as part of the Burma Army Act.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "committed" means committed to prison or to confinement in military custody;
- (b) "competent military authority" means superior military authority, or any general or other officer not below the rank of field officer duly authorised by a superior military authority;

¹ Substituted by Act XVII, 1943.

- (c) "imprisonment" includes confinement in military custody ;
- (d) "principal Act" means the Burma Army Act ;
- (e) "sentence" means a sentence of transportation or imprisonment, whether originally passed on a person subject to the principal Act, or passed by way of reduction or commutation ; and "sentenced" has the corresponding meaning ; and
- (f) "superior military authority" means the President of the Union or any officer empowered under the principal Act to convene general Courts-martial or summary general Courts-martial.

3. (1) Where a person subject to the principal Act is sentenced, the confirming officer when confirming the sentence, or, in the case of a sentence which does not require confirmation, the officer holding the trial or the president of the Court-martial when passing sentence may, notwithstanding anything in the principal Act, direct that such person be not committed until the orders of a superior military authority have been obtained.

Suspension of sentences.

(2) A superior military authority may, in the case of any such offender so sentenced,—

- (a) direct that, until his orders have been obtained, such offender shall not be committed ; and
- (b) suspend the sentence whether or not the offender has already been committed.

(3) Where, in accordance with any order passed under sub-section (2), a sentence is suspended, the offender shall, whether he has been committed or not, forthwith be released.

4. Any period during which a sentence is under suspension shall be reckoned as part of the term of such sentence.

Calculation of periods of sentence under suspension.

5. A superior military authority may, at any time whilst a sentence is suspended under this Act, order—

Power to set aside suspension or order remission.

- (a) that the offender be committed to undergo the unexpired portion of the sentence, or
- (b) that the sentence be remitted.

6. Where a sentence has been suspended under this Act, the case may at any time, and shall at intervals of not more than four months, be reconsidered by a competent military authority, and if, on any such reconsideration, it appears to such authority that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall, if he is not also a superior military authority, refer the case to a superior military authority.

Periodical review of suspended sentences.

7. Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

Procedure on further sentence of offender whose sentence is suspended.

- (a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently ;
- (b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed on the unexpired portion of the previous sentence, but both sentences shall run concurrently ; and

- (c) if the further sentence is for a period of three months or less and is not suspended under this Act, the offender shall be committed on that sentence only, and the previous sentence shall (subject to any order which may be passed under section 5 or section 6) continue to be suspended.

Saving of section 112, Burma Army Act.

8. The powers conferred by this Act shall be in addition to, and not in derogation of, any powers as to the mitigation, remission or commutation of sentences conferred by the principal Act, and a superior military authority shall, as regards persons subject to that Act, be an authority having power to mitigate, remit or commute sentences under section 112 of that Act.

Provision as to dismissal.

9. Where in addition to any other sentence the punishment of dismissal has been awarded by a Court-martial, and such other sentence is suspended under this Act, then, notwithstanding anything contained in the principal Act or in any rules made thereunder, such dismissal shall not take effect until so ordered by a superior military authority :

Provided that, if a sentence is remitted under this Act, the punishment of dismissal shall also be remitted:

THE BURMA RESERVE FORCES ACT

1. * * * *

Division of Reserve Forces into Regular and Supplementary Reserves.

2. The Burma Reserve Forces shall consist of the Regular Reserve and the Supplementary Reserve.

Locality of service of Reserves.

3. A person belonging to the Burma Reserve Forces shall be liable to serve beyond the limits of the Union of Burma as well as within those limits.

Power to make rules for regulation of Reserve Forces.

4. The President of the Union may make rules and orders for the government, discipline and regulation of the Burma Reserve Forces.

Liability of Reserve Forces to military law.

5. Subject to such rules and orders as may be made under section 4, a person belonging to the Burma Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to the Burma Forces.

Punishment of certain offences by persons belonging to Reserve Forces.

6. (1) If a person belonging to the Burma Reserve Forces—

- (a) when required by or in pursuance of any rule or order under this Act to attend at any place, fails without reasonable excuse to attend in accordance with such requirement, or
 (b) fails without reasonable excuse to comply with any such rule or order,
 or