THE NATIONAL SECURITY GUARD ACT, 1986

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.
2. Definitions.
3. Persons subject to this Act.

CHAPTER II

CONSTITUTION OF THE SECURITY GUARD AND CONDITIONS OR SERVCE OF THE MEMBERS OF THE SECURITY GUARD

4. Constitution of the Security Guard.
5. Control, direction, etc.
6. Liability for service outside India.
7. Resignation and withdrawal from the post.
8. Tenure of service under the Act.
9. Termination of service by Central Government.
10. Dismissal, removal or reduction by the Director-General and by other officers.
11. Certificate of termination of service.
12. Restrictions respecting right to form associations, freedom of speech, etc.
13. Remedy of aggrieved persons other than officers.
14. Remedy of aggrieved officers.

IndiaCode

CHAPTER III

OFFENCES

15. Offences in relation to the terrorists and other persons in arms against the Union and punishable with death.
16. Offences punishable more severely on active duty than at other times.
17. Mutiny.
18. Desertion and aiding desertion.
19. Absence without leave.
20. Striking or threatening superior officer.
21. Disobedience to superior officer.
22. Assault and obstruction.
23. Certain forms of disgraceful conduct.
24. Ill-treating a subordinate.
25. Drunkenness.
26. Permitting escape of person in custody.
27. Irregularity in connection with arrest or confinement.
28. Escape from custody.
29. Offences in respect of property.
30. Extortion and exaction.

SECTIONS

31. Making away with equipment.
32. Injury to property.
33. False accusations.
34. Falsifying official documents and false declarations.
35. False declaration on appointment.
36. Offences relating to Security Guard Court.
37. False evidence.
38. Unlawful detention of pay.
39. Unbecoming conduct.
40. Violation of good order and discipline.
41. Miscellaneous offences.
42. Attempt.
43. Abetment of offences that have been committed.
44. Abetment of offences that have not been committed.
45. Civil offences.
46. Civil offences not triable by a Security Guard Court.

CHAPTER IV

PUNISHMENTS

47. Punishments awardable by Security Guard Courts.
48. Alternative punishments awardable by Security Guard Courts.
49. Combination of punishments.
50. Punishments otherwise than by Security Guard Courts.
51. Minor punishments.
52. Limit of punishments under section 51.
53. Punishment of officers of or below the rank of Squadron Commanders by officers not below the rank of Inspectors-General.
54. Punishment of persons of the rank of Assistant Commander.

CHAPTER V

ARREST AND PROCEEDINGS BEFORE TRIAL

55. Custody of offenders.
56. Duty of Commander in regard to detention.
57. Interval between committal and trial.
58. Arrest by civil authorities.
59. Capture of deserters.
60. Inquiry into absence without leave.

CHAPTER VI

SECURITY GUARD COURTS

61. Kinds of security Guard Courts.
62. Power to convene General Security Guard Court.
63. Power to convene a Petty Security Guard Court.
64. Contents of warrants issued under sections 62 and 63.
65. Composition of General Security Guard Court.
66. Composition of a Petty Security Guard Court.
67. Summary Security Guard Court.

IndiaCode

SECTIONS

68. Dissolution of a Security Guard Court.
69. Powers of a General Security Guard Court.
70. Powers of a Petty Security Guard Court.
71. Powers of a Summary Security Guard Court.
72. Prohibition of second trial.
73. Period of limitation for trial.
74. Trial, etc., of offender who ceases to be subject to this Act.
75. Application of Act during term of sentence.
76. Place of trial.
77. Choice between Criminal Court and Security Guard Court.
78. Power of criminal court to require delivery of offender.

CHAPTER VII

PROCEDURE OF SECURITY GUARD COURTS

79. Presiding officer.
80. Judge Attorneys, etc.
81. Challenges.
82. Oaths of members, Judge Attorney and witness.
83. Voting by members.
84. General rule as to evidence.
85. Judicial notice.
86. Summoning witnesses.
87. Documents exempted from production.
88. Commissions for examination of witnesses.
89. Examination of witness on commission.
90. Conviction of offence not charged.
91. Presumption as to signatures.
92. Appointment paper.
93. Presumption as to certain documents.
94. Reference by accused to Government officer.
95. Evidence of previous convictions and general character.
96. Lunacy of accused.
97. Subsequent fitness of lunatic accused for trial.
98. Transmission to Central Government of orders under section 97.
99. Release of lunatic accused.
100. Delivery of lunatic accused to relatives.
101. Order for custody and disposal of property pending trial.
102. Order for disposal of property regarding which offence is committed.
103. Powers of Security Guard Court in relation to proceedings under the Act.

CHAPTER VIII

CONFIRMATION AND REVISION

104. Finding and sentence not valid, unless confirmed.
105. Power to confirm finding and sentence of General Security Guard Court
106. Power to confirm finding and sentence of Petty Security Guard Court.
107. Limitation of powers of confirming authority.
108. Power of confirming authority to mitigate, remit or commute sentences.

IndiaCode

SECTIONS

109. Revision of finding or sentence.
110. Finding and sentence of a Summary Security Guard Court.
111. Transmission of proceedings of Summary Security Guard Court.
112. Alteration of finding of sentence in certain cases.
113. Remedy against order, finding or sentence of Security Guard Court.
114. Annulment of proceedings.

CHAPTER IX

EXECUTION OF SENTENCES, PARDONS, REMISSIONS, ETC.

115. Form of sentence of death.
116. Commencement of sentence of imprisonment.
117. Execution of sentence of imprisonment.
118. Temporary custody of offender.
119. Execution of sentence of imprisonment in special cases.
120. Conveyance of prisoner from place to place.
121. Communication of certain orders to prison officers.
122. Execution of sentence of fine.
123. Informality or error in the order or warrant.
124. Pardon and remission.
125. Cancellation of conditional pardon, release on parole or remission.
126. Suspension of sentence of imprisonment.
127. Orders pending suspension.
128. Release on suspension.
129. Computation of period of suspension.
130. Order after suspension.
131. Reconsideration of case after suspension.
132. Fresh sentence after suspension.
133. Scope of power of suspension.
134. Effect of suspension and remission on dismissal.

IndiaCode

CHAPTER X

MISCELLANEOUS

135. Rank structure.
136. Deduction from pay and allowances.
137. Powers and duties conferable and imposable on members of the Security Guard.
138. Protection for acts of members of the Security Guard.
139. Power to make rules.
140. Provisions as to existing National Security Guard.

THE NATIONAL SECURITY GUARD ACT, 1986

ACT NO. 47 OF 1986

[22*nd September*, 1986.]

An Act to provide for the constitution and regulation of an armed force of the Union for combating terrorist activities with a view to protecting States against internal disturbances and for matters connected therewith.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(*1*) This Act may be called the National Security Guard Act, 1986.

(*2*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—(*1*) In this Act, unless the context otherwise requires,—

(*a*) "active duty", in relation to a person subject to this Act, means any duty as a member of the Security Guard during the period in which such person is attached to, or forms part of, a unit of the Security Guard—

(*i*) which is engaged in operations against terrorists or any person in arms against the Union; or

(*ii*) which is operating at a picket or engaged on patrol or any other duty, in relation to combating terrorist activity;

(*b*) "Assistant Commander" means a person appointed or in pay as an Assistant Commander Grade I, Assistant Commander Grade II or Assistant Commander Grade III;

(*c*) "civil offence" means an offence which is triable by a Criminal Court or by a special Judge appointed under the Criminal Law Amendment Act, 1952 (46 of 1952);

(*d*) "civil prison" means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894 (9 of 1894), or under any other law for the time being in force;

(*e*) "combatised tradesman" means a person appointed or in pay as a combatised tradesman;

(*f*) "Commander", when used in any provision of this Act with reference to any unit of the Security Guard, means the officer whose duty it is to discharge with respect to that unit, the functions of a Commander in regard to matters of the description referred to in that provision;

(*g*) "Criminal Court" means a Court of ordinary criminal justice in any part of India and includes a Court of a special Judge appointed under the Criminal Law Amendment Act, 1952 (46 of 1952);

(*h*) "Deputy Inspector-General" means a Deputy Inspector-General of the Security Guard appointed under section 5;

(*i*) "Director-General" and "Additional Director-General" mean, respectively, the Director-General and an Additional Director-General of the Security Guard appointed under section 5;

1. 16th October, 1986, *vide* notification No. S.O. 737(E), dated 16th October, 1986, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).

IndiaCode

(*j*) "Group" means a unit of the Security Guard constituted as a Group by the Central Government;

(*k*) "Group Commander" means a Group Commander of the Security Guard appointed under section 5;

(*l*) "Inspector-General" means an Inspector-General of the Security Guard appointed under section 5;

(*m*) "Judge Attorney-General", "Additional Judge Attorney-General", "Deputy Judge Attorney-General" and "Judge Attorney" mean, respectively, the Judge Attorney-General, an Additional Judge Attorney-General, a Deputy Judge Attorney-General and a Judge Attorney of the Security Guard appointed in the appropriate rank by the Central Government;

(*n*) "member of the Security Guard" means an officer, an Assistant Commander, a Ranger or a combatised tradesman;

(*o*) "notification" means a notification published in the Official Gazette;

(*p*) "offence" means any act or omission punishable under this Act and includes a civil offence;

(*q*) "officer" means a person appointed or in pay as an officer of the Security Guard;

(*r*) "prescribed" means prescribed by rules;

(*s*) "Ranger" means a Ranger Grade I and a Ranger Grade II of the Security Guard;

(*t*) "rule" means a rule made under this Act;

(*u*) "Security Guard" means the National Security Guard;

(*v*) "Security Guard Court" means a Court referred to in section 61;

(*w*) "Security Guard custody" means the arrest or confinement of a member of the Security Guard according to rules;

(*x*) "superior officer", when used in relation to a person subject to this Act, means—

(*i*) any member of the Security Guard to whose command such person is for the time being subject in accordance with the rules;

(*ii*) any officer of a higher rank or class,

and includes, when such person is not an officer, an Assistant Commander or a Ranger of a higher rank or class;

(*y*) "terrorist" means any person who, with intent to over-awe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people, does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or as is likely to cause, death of, or injuries to, any person or persons or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community;

(*z*) all words and expressions used and not defined in this Act but defined in the Indian Penal Code (45 of 1860) shall have the meanings respectively assigned to them in that Code.

(*2*) In this Act, references to any law not in force in any State shall be construed as references to the corresponding law in force in that State.

3. Persons subject to this Act.—(*1*) The following persons appointed (whether on deputation or in any other manner) in the Security Guard shall be subject to this Act, wherever they may be, namely:—

(*a*) officers and Assistant Commander; and

(*b*) Rangers and combatised tradesmen.

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(*2*) Every person subject to this Act shall remain so subject until repatriated, retired, released, discharged, removed or dismissed from the Security Guard in accordance with the provisions of this Act and the rules.

CHAPTER II

CONSTITUTION OF THE SECURITY GUARD AND CONDITIONS OR SERVCE OF THE MEMBERS OF THE SECURITY GUARD

4. Constitution of the Security Guard.—(*1*) There shall be an armed force of the Union called the National Security Guard for combating terrorist activities with a view to protect States against internal disturbances.

(*2*) Subject to the provisions of this Act, the Security Guard shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Security Guard shall be such as may be prescribed.

5. Control, direction, etc.—(*1*) The general superintendence, direction and control of the Security Guard shall vest in, and be exercised by, the Central Government and subject thereto and to the provisions of this Act and the rules, the command and supervision of the Security Guard shall vest in an officer to be appointed by the Central Government as the Director-General of the Security Guard.

(*2*) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Additional Directors-General, Inspectors-General, Deputy Inspectors-General, Group Commanders and other officers as may be appointed by the Central Government.

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6. Liability for service outside India.—Every member of the Security Guard shall be liable to serve in any part of India as well as outside India.

7. Resignation and withdrawal from the post.—No member of the Security Guard shall be at liberty—

(*a*) to resign his appointment during the term of his engagement; or

(*b*) to withdraw himself from all or any of the duties of his appointment,

except with the previous permission in writing of the prescribed authority.

8. Tenure of service under the Act.—Every person subject to this Act shall hold office during the pleasure of the President.

9. Termination of service by Central Government.—Subject to the provisions of this Act and the rules, the Central Government may dismiss or remove from service any person subject to this Act.

10. Dismissal, removal or reduction by the Director-General and by other officers.—(*1*) The Director-General, any Additional Director-General or any Inspector-General may dismiss or remove from service or reduce to a lower grade or rank or the ranks, any person subject to this Act other than an officer.

(*2*) An officer not below the rank of a Deputy Inspector-General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or an Assistant Commander.

(*3*) Any such officer as is mentioned in sub-section (*2*) may reduce to a lower grade or rank or the ranks any person under his command except an officer or an Assistant Commander.

(*4*) The exercise of any power under this section shall be subject to the provisions of this Act and the rules.

11. Certificate of termination of service.—An Assistant Commander or a Ranger or a combatised tradesman who is retired, released, discharged, removed or dismissed from the service shall be furnished by the officer to whose command he is subject, with a certificate setting forth—

(*a*) the authority terminating his service;

(*b*) the cause for such termination; and

(*c*) the full period of his service in the Security Guard.

12. Restrictions respecting right to form associations, freedom of speech, etc.—(*1*) No person subject to this Act shall, without the previous sanction in writing of the Central Government or of the prescribed authority,—

(*a*) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade unions, labour unions or political associations; or

(*b*) be a member of, or be associated in any way with, any society, institution, association or organisation that is not recognised as part of the Security Guard or is not of a purely social, recreational or religious nature; or

(*c*) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the *bona fide* discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation.—If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (*b*) of this sub-section, the decision of the Central Government thereon shall be final.

(*2*) No person subject to this Act shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be prescribed.

13. Remedy of aggrieved persons other than officers.—(*1*) Any person subject to this Act other than an officer who deems himself wronged by any superior or other officer may, complain to the officer under whose command he is serving.

(*2*) When the officer complained against is the officer to whom any complaint should, under sub-section (*1*), be preferred, the aggrieved person may complain to such officer's next superior officer.

(*3*) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or when necessary, refer the complaint to a superior authority.

(*4*) The Director-General may revise any decision made under any of the foregoing sub-sections, but, subject thereto, such decision shall be final.

14. Remedy of aggrieved officers.—Any officer who deems himself wronged by his Commander or any other superior officer and who, on due application made to his Commander or such other superior officer, does not receive the redress to which he considers himself entitled, may complain to the Director-General or the Central Government through proper channel.

CHAPTER III

OFFENCES

15. Offences in relation to the terrorists and other persons in arms against the Union and punishable with death.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) shamefully abandons place of his duty or misbehaves in such manner as to show cowardice during operations;

(*b*) treacherously holds correspondence with, or communicates intelligence to, a terrorist or any person in arms against the Union; or

(*c*) directly or indirectly assists any terrorist with money, arms, ammunition, stores or supplies or in any other manner whatsoever; or

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(*d*) knowingly does any act calculated to imperil the success of the Security Guard or the military, naval, air forces or any other armed force of India or any forces co-operating therewith or any part of such forces,

shall, on conviction by a Security Guard Court, be liable to suffer death or such less punishment as is in this Act mentioned.

16. Offences punishable more severely on active duty than at other times.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) forces a safeguard, or forces or uses criminal force to a sentry; or

(*b*) breaks into any house or other place in search of plunder; or

(*c*) being a sentry sleeps upon his post, or is drunk; or

(*d*) without orders from his superior officer leaves his guard, picket, patrol or post,

shall, on conviction by a Security Guard Court,—

(*i*) if he commits any such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(*ii*) if he commits any such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to seven years of such less punishment as is in this Act mentioned.

17. Mutiny.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) begins, incites, causes or conspires with any other person to cause any mutiny in the Security Guard or in the military, naval, air forces or any other armed force of India or any forces co-operating therewith; or

(*b*) joins in any such mutiny; or

(*c*) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(*d*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his Commander or other superior officer; or

(*e*) endeavours to seduce any person in the Security Guard or in the military, naval, air forces or any other armed force of India or any forces co-operating therewith from his duty or allegiance to the Union,

shall, on conviction by a Security Guard Court, be liable to suffer death or such less punishment as is in this Act mentioned.

18. Desertion and aiding desertion.—(*1*) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by a Security Guard Court,—

(*a*) if he commits the offence when on active duty or when under orders for active duty, be liable to suffer death or such less punishment as is in this Act mentioned; and

(*b*) if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who knowingly harbours any such deserter shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

(*3*) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

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(*4*) For the purposes of this Act, a person deserts,—

(*a*) if he absents from his unit or the place of duty at any time with the intention of not reporting back to such unit or place, or who, at any time and under any circumstances when absent from his unit or place of duty, does any act which shows that he has an intention of not reporting to such unit or place of duty;

(*b*) if he absents himself without leave with intent to avoid any active duty.

19. Absence without leave.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) absents himself without leave; or

(*b*) without sufficient cause overstays leave granted to him; or

(*c*) being on leave or absence and having received information from the appropriate authority that any unit or part thereof to which he belongs, has been ordered on active duty, fails, without sufficient cause, to rejoin without delay; or

(*d*) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(*e*) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(*f*) when in camp or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(*g*) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

20. Striking or threatening superior officer.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) uses criminal force to or assaults his superior officer; or

(*b*) uses threatening language to such officer; or

(*c*) uses insubordinate language to such officer,

shall, on conviction by a Security Guard Court,—

(*i*) if such officer is at the time in the execution of his office or, if the offence is committed on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(*ii*) in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned:

Provided that in the case of any offence specified in clause (*c*), the imprisonment shall not exceed five years.

21. Disobedience to superior officer.—(*1*) Any person subject to this Act who disobeys, in such manner as to show a wilful defiance of authority, any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or othrewise, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

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22. Assault and obstruction.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being concerned in any quarrel, affray or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(*b*) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(*c*) resists an escort whose duty it is to apprehend him or have him in charge; or

(*d*) breaks out of barracks, camp or quarters; or

(*e*) refuses to obey any general, local or other order,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend, in the case of offences specified in clauses (*d*) and (*e*), to two years, and in the case of the offences specified in the other clauses, to ten years, or in either case such less punishment as is in this Act mentioned.

23. Certain forms of disgraceful conduct.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(*b*) malingers or feigns or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity; or

(*c*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

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24. Ill-treating a subordinate.—Any officer, Assistant Commander or Ranger Grade I, who uses criminal force to, or otherwise ill-treats, any person subject to this Act, being his subordinate in rank or position, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

25. Drunkenness.—(*1*) Any person subject to this Act, who is found in a state of drunkenness, whether on duty or not, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

(*2*) For the purposes of sub-section (*1*), a person shall be deemed to be in a state of drunkenness if, owing to the influence of alcohol or any drug whether alone or in combination with any other substance, 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 a manner likely to bring discredit to the Security Guard.

26. Permitting escape of person in custody.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) when in command of a guard, picket, patrol, detachment or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; or

(*b*) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by a Security Guard Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

27. Irregularity in connection with arrest or confinement.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(*b*) having committed a person to Security Guard custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to one year or such less punishment as is in this Act mentioned.

28. Escape from custody.—Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

29. Offences in respect of property.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) commits theft of any property belonging to the Government, or to any Security Guard mess, band or institution, or to any person subject to this Act; or

(*b*) dishonestly misappropriates or converts to his own use any such property; or

(*c*) commits criminal breach of trust in respect of any such property: or

(*d*) dishonestly receives or retains any such property in respect of which any of the offences under clauses (*a*), (*b*) and (*c*) has been committed, knowing or having reason to believe the commission of such offence; or

(*e*) wilfully destroys or injures any property of the Government entrusted to him; or

(*f*) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

30. Extortion and exaction.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) commits extortion; or

(*b*) without proper authority exacts from any person money, provisions or service,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

31. Making away with equipment.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(*b*) loses by neglect anything mentioned in clause (*a*); or

(*c*) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clause *(a)*, to ten years, and in the case of the offences specified in the other clauses, to five years, or in either case such less punishment as is in this Act mentioned.

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32. Injury to property.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) destroys or injures any property mentioned in clause (*a*) of section 31, or any property belonging to any Security Guard mess, band or institution, or to any person subject to this Act; or

(*b*) commits any act which causes damage to, or destruction of, any property of the Government by fire or in any other manner whatever; or

(*c*) kills, injures, makes away with, ill-treats or losses, any animal entrusted to him,

shall, on conviction by a Security Guard Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

33. False accusations.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(*b*) in making a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material fact,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

34. Falsifying official documents and false declarations.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or

(*b*) in any document of the description mentioned in clause (*a*) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(*c*) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(*d*) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(*e*) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

35. False declaration on appointment.—Any person having become subject to this Act who is discovered to have made at the time of appointment a wilfully false statement or declaration in connection with his appointment, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

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36. Offences relating to Security Guard Courts.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being duly summoned or ordered to attend as a witness before a Security Guard Court, wilfully or without reasonable excuse, makes default in attending; or

(*b*) refuses to take an oath or make an affirmation legally required by a Security Guard Court to be taken or made; or

(*c*) refuses to produce or deliver any document in his power or control legally required by a Security Guard Court to be produced or delivered by him; or

(*d*) refuses, when a witness, to answer any question which he is by law bound to answer; or

(*e*) is guilty of contempt of the Security Guard Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

37. False evidence.—Any person subject to this Act who, having been duly sworn or affirmed before any Security Guard Court, or before any officer competent under this Act to administer oath or affirmation or before a Court of inquiry constituted under this Act, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

38. Unlawful detention of pay.—Any officer, Assistant Commander or Ranger Grade I who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

39. Unbecoming conduct.—Any officer or Assistant Commander who behaves in a manner unbecoming of his position and the character expected of him shall, on conviction by a Security Guard Court, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

40. Violation of good order and discipline.—Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline of the Security Guard shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

41. Miscellaneous offences.—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being in command of any detachment or post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has caused disturbance at any public place, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(*b*) by defiling any place of worship, or otherwise intentionally insults the religion, or wounds the religious feelings of any person; or

(*c*) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or

(*d*) being below the rank of an Assistant Commander, when off duty, appears without proper authority, in or about camp, or in or about, or when going to, or returning from, any town, carrying a rifle, sword or other offensive weapon; or

(*e*) directly or indirectly accepts or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the appointment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

IndiaCode

(*f*) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

42. Attempt.—Any person subject to this Act who attempts to commit any of the offences specified in sections 15 to 41 (both inclusive) and in such attempt does any act towards the commission of the offence shall, on conviction by a Security Guard Court, where no express provision is made by this Act for the punishment of such attempt, be liable,—

(*a*) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(*b*) if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

43. Abetment of offences that have been committed.—Any person subject to this Act who abets the commission of any of the offences specified in sections 15 to 41 (both inclusive) shall, on conviction by a Security Guard Court, if the act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

44. Abetment of offences that have not been committed.—(*1*) Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 15, 17 and sub-section (*1*) of section 18 shall, on conviction by a Security Guard Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who abets the commission of any of the offences specified in sections 15 to 41 (both inclusive) and punishable with imprisonment shall, on conviction by a Security Guard Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

45. Civil offences.—Subject to the provisions of section 46, any person subject to this Act who at any place in, or beyond, India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a Security Guard Court and, on conviction, be punishable as follows, that is to say,—

(*a*) if the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer any punishment, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(*b*) in any other case, he shall be liable to suffer any punishment, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

46. Civil offences not triable by a Security Guard Court.—A person subject to this Act who commits an offence of murder or of culpable homicide not amounting to murder against, or of rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence under this Act and shall not be tried by a Security Guard Court, unless he commits any of the said offences,—

(*a*) while on active duty; or

(*b*) at any place outside India.

CHAPTER IV

PUNISHMENTS

47. Punishments awardable by Security Guard Courts.—(*1*) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by Security Guard Courts according to the scale following, that is to say,—

(*a*) death;

(*b*) imprisonment which may be for the term of life or any other lesser term but excluding imprisonment for a term not exceeding three months in Security Guard custody;

(*c*) dismissal from the service;

(*d*) imprisonment for a term not exceeding three months in Security Guard custody;

(*e*) reduction to the ranks or to a lower rank or grade in the case of a Ranger Grade I;

(*f*) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion where promotion depends upon length of service;

(*g*) forfeiture of service for the purpose of increment or pension or other prescribed purpose;

(*h)* severe reprimand or reprimand except in the case of persons below the rank of Ranger Grade I;

(*i*) forfeiture in the case of a person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;

(*j*) deduction from pay and allowances to make good any proved loss or damage occasioned by the offence for which he is convicted.

(*2*) Each of the punishments specified in sub-section (*1*) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

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48. Alternative punishments awardable by Security Guard Courts.—Subject to the provisions of this Act, a Security Guard Court may, on convicting a person subject to this Act of any of the offences specified in sections 15 to 44 (both inclusive) award either the particular punishment with which the offence is stated in the said sections to be punishable or, in lieu, thereof, any of the punishments lower in the scale set out in section 47 regard being had to the nature and degree of the offence.

49. Combination of punishments.—A sentence of a Security Guard Court may award in addition to, or without any one other punishment, the punishment specified in clause *(c)* of sub-section (*1*) of section 47 and any one or more of the punishments specified in clauses *(e)* to (*j*) (both inclusive) of that sub-section.

50. Punishments otherwise than by Security Guard Courts.—Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a Security Guard Court in the manner stated in sections 51 and 53.

51. Minor punishments.—(*1*) Subject to the provisions of section 52, a Commander of and above the rank of a Group Commander may, in the prescribed manner proceed against a person subject to this Act other than an officer or an Assistant Commander, who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

(*a*) imprisonment in Security Guard custody up to twenty-eight days;

(*b*) detention up to twenty-eight days;

(*c*) confinement to the lines up to twenty-eight days;

(*d*) extra guards or duties;

(*e*) deprivation of any acting rank provided such rank has not been held by him for more than two years;

(*f*) severe reprimand or reprimand;

(*g*) deductions from his pay and allowances of any sum required to make good any loss or damage occasioned by the offence for which he is punished.

(*2*) If a group is being temporarily commanded by an officer of the rank of a Squadron Commander or a Team Commander, such officer shall have full powers of a Commander as specified in sub-section (*1*).

(*3*) Subject to the provisions of section 52, a Squadron Commander or a Team Commander commanding a squadron or a team or any detachment shall have the power to proceed against a person subject to this Act, other than an officer or an Assistant Commander, who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the punishments specified in clauses (*a*) to (*d*) and (*g*) of sub-section (*1*) provided that the maximum limit of punishment awarded under each of the clauses (*a*), (*b*) and (*c*) shall not exceed fourteen days.

52. Limit of punishments under section 51.—(*1*) In the case of an award of two or more of the punishments specified in clauses (*a*), (*b*), (*c*) and (*d*) of sub-section (*1*) of section 51, the punishments specified in clause (*c*) or clause (*d*) shall take effect only at the end of the punishment specified in clause (*a*) or clause (*b*).

(*2*) When two or more of the punishments specified in the said clauses (*a*), (*b*) and (*c*) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate fifty-six days.

(*3*) The punishments specified in the said clauses (*a*), (*b*) and (*c*) shall not be awarded to any person who is of the rank of Ranger Grade I or was, at the time of committing the offence for which he is punished, or such rank.

(*4*) The punishments specified in clause (*f*) of sub-section (*1*) of section 51 shall not be awarded to any person below the rank of Ranger Grade I.

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53. Punishment of officers of or below the rank of Squadron Commanders by officers not below the rank of Inspectors-General.—An officer not below the rank of an Inspector-General may, in the prescribed manner, proceed against an officer of or below the rank of a Squadron Commander, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(*a*) forfeiture of seniority, or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of promotion for a period not exceeding one year, but subject to the right of the accused previous to the award to elect to be tried by a General Security Guard Court;

(*b*) severe reprimand or reprimand;

(*c*) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

54. Punishment of persons of the rank of Assistant Commander.—(*1*) An officer not below the rank of a Deputy Inspector-General may, in the prescribed manner, proceed against a person of the rank of an Assistant Commander who is charged with an offence under this Act and award one or more of the following punishments, that is to say,—

(*a*) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding one year, but subject to the right of the accused previous to the award to elect to be tried by a General Security Guard Court;

(*b*) severe reprimand or reprimand;

(*c*) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

(*2*) An officer of the rank of a Group Commander may, in the prescribed manner, proceed against a person of the rank of an Assistant Commander who is charged with an offence under this Act and award any one or both of the following punishments, that is to say,—

(*a*) severe reprimand or reprimand;

(*b*) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

CHAPTER V

ARREST AND PROCEEDINGS BEFORE TRIAL

55. Custody of offenders.—(*1*) Any person subject to this Act who is charged with an offence may be taken into Security Guard custody, under the order of any superior officer.

(*2*) Notwithstanding anything contained in sub-section (*1*), an officer may order into Security Guard custody any other officer, though such other officer may be of a higher rank, engaged in a quarrel, affray or disorder.

56. Duty of Commander in regard to detention.—(*1*) It shall be the duty of every Commander to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

(*2*) The case of every person being detained in custody beyond a period of forty-eight hours, and the reasons therefor, shall be reported by the Commander to the next higher authority.

(*3*) In reckoning the period of forty-eight hours specified in sub-section (*1*), Sundays and other public holidays shall be excluded.

(*4*) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in Security Guard custody, pending the trial by any competent authority for any offence committed by him.

57. Interval between committal and trial.—In every case where any such person as is mentioned in section 55 and as is not on active duty, remains in such custody for a longer period than eight days without a Security Guard Court for his trial being convened, a special report giving reasons for the delay shall be made by his Commander and a similar report shall be forwarded at intervals of every eight days until a Security Guard Court is convened or such person is released from custody.

58. Arrest by civil authorities.—Whenever any person subject to this Act, who is accused of an offence under this Act, is within the jurisdiction of any Magistrate or police officer, such Magistrate or police officer shall aid in the apprehension and delivery to Security Guard custody of such persons upon receipt of a written application to that effect signed by his Commander or an officer authorised by the Commander in that behalf.

59. Capture of deserters.—(*1*) Whenever any person subject to this Act deserts, the Commander of the unit to which he belongs, shall give information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, into Security Guard custody.

(*2*) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

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60. Inquiry into absence without leave.—(*1*) When any person subject to this Act has been absent from duty without due authority for a period of thirty days, a Court of inquiry shall, as soon as practicable, be appointed by an officer not below the rank of a Group Commander under whose command he is for the time being serving and such Court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the Court shall declare such absence and the period thereof and the said deficiency, if any, and transmit the proceedings of the Court of inquiry to the officer who appointed the court of inquiry, for further action.

(*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.

CHAPTER VI

SECURITY GUARD COURTS

61. Kinds of Security Guard Courts.—For the purposes of this Act there shall be three kinds of Security Guard Courts, that is to say,**—**

(*a*) General Security Guard Courts;

(*b*) Petty Security Guard Courts; and

(*c*) Summary Security Guard Courts.

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62. Power to convene General Security Guard Court.—A General Security Guard Court may be convened by the Central Government or the Director-General or by any officer empowered in this behalf by warrant of the Director-General.

63. Power to convene a Petty Security Guard Court.—A Petty Security Guard Court may be convened by an officer having power to convene a General Security Guard Court or by an officer empowered in this behalf by warrant of any such officer.

64. Contents of warrants issued under sections 62 and 63.—A warrant, issued under section 62 or section 63 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

65. Composition of General Security Guard Court.—A General Security Guard Court shall consist of not less than five officers.

66. Composition of a Petty Security Guard Court.—A Petty Security Guard Court shall consist of not less than three officers.

67. Summary Security Guard Court.—(*1*) A Summary Security Guard Court may be held by the Commander of any unit of the Security Guard and he alone shall constitute the Court.

(*2*) The proceedings shall be attended throughout by two other persons who shall be officers or Assistant Commanders or one of either, and who shall not as such, be sworn or affirmed:

Provided that the persons attending the Court for the trial of an officer shall not be of a rank lower than the rank of that officer unless in the opinion of the convening officer recorded in the convening order, officers of such rank are not, having due regard to the exigencies of public service, available.

68. Dissolution of a Security Guard Court.—(*1*) If a Security Guard Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(*2*) If, on account of the illness of the concerned Judge Attorney or, as the case may be, Deputy Judge Attorney-General or Additional Judge Attorney-General or of the accused before the finding, it is impossible to continue the trial, a Security Guard Court shall be dissolved.

(*3*) The authority or officer who convened a Security Guard Court may dissolve the same if it appears to it or him that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Security Guard Court.

(*4*) Where a Security Guard Court is dissolved under this section, the accused may be tried again.

69. Powers of a General Security Guard Court.—A General Security Guard Court shall have the power to try any person subject to this Act for any offence punishable thereunder and to pass any sentence authorised thereby.

70. Powers of a Petty Security Guard Court.—A Petty Security Guard Court shall have the power to try any person subject to this Act other than an officer or an Assistant Commander for any offence made punishable thereunder and to pass any sentence authorised by this Act other than a sentence of death, or imprisonment for a term exceeding two years.

71. Powers of a Summary Security Guard Court.—(*1*) Subject to the provisions of sub-section (*2*), a Summary Security Guard Court may try any offence punishable under this Act.

(*2*) When there is no grave reason for immediate action a reference can, without detriment to discipline, be made to the officer empowered to convene a Petty Security Force Court for the trial of the alleged offender, an officer holding a Summary Security Guard Court shall not try without such reference any offence punishable under any of the sections 15, 17 and 45, or any offence against the officer holding the Court.

(*3*) A Summary Security Guard Court may try any person subject to this Act and under the command of the officer holding the Court, except an officer, or an Assistant Commander.

(*4*) A Summary Security Guard Court may pass any sentence which may be passed under this Act, except the sentence of death or of imprisonment for a term exceeding the limit specified in sub-section *(5)*.

(*5*) The limit referred to in sub-section *(4)* shall be,—

(*a*) one year, if the officer holding the Security Guard Court holds the rank not below that of a Group Commander;

(*b*) three months, in any other case.

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72. Prohibition of second trial.—(*1*) When any person subject to this Act has been acquitted or convicted of an offence by a Security Guard Court or by a Criminal Court or has been dealt with under section 51 or section 53 or section 54, he shall not be liable to be tried again for the same offence by a Security Guard Court or dealt with under the said sections.

(*2*) When any person subject to this Act, has been acquitted or convicted of an offence by a Security Guard Court or has been dealt with under section 51 or section 53 or section 54, he shall not be liable to be tried again by a Criminal Court for the same offence or on the same facts.

73. Period of limitation for trial.—(*1*) Except as provided by sub-section (*2*), no trial by a Security Guard Court of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(*2*) The provisions of sub-section (*1*) shall not apply to a trial for an offence of desertion or for any of the offences mentioned in section 17.

(*3*) In the computation of the period of time mentioned in sub-section (*1*), any time spent by such person in evading arrest after the commission of the offence, shall be excluded,

74. Trial, etc., of offender who ceases to be subject to this Act.—(*1*) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in Security Guard custody and tried and punished for such offence as if he continued to be so subject.

(*2*) No such person shall be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act;

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or for any of the offences mentioned in section 17 or shall affect the jurisdiction of a criminal court to try any offence triable by such Court as well as by a Security Guard Court.

75. Application of Act during term of sentence.—(*1*) When a person subject to this Act is sentenced by a Security Guard Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Security Guard, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(*2*) When a person subject to this Act is sentenced by a Security Guard Court to death, this Act shall apply to him till the sentence is carried out.

76. Place of trial.—Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

77. Choice between Criminal Court and Security Guard Court.—When a Criminal Court and a Security Guard Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director-General, or the Inspector-General or the Deputy Inspector-General, within whose command the accused person is serving or such other officer as may be prescribed, to decide before which Court the proceedings shall be instituted, and, if that officer decides that they shall be instituted before a Security Guard Court, to direct that the accused person shall be detained in Security Guard custody.

78. Power of criminal court to require delivery of offender.—(*1*) When a Criminal Court having jurisdiction is of the opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 77 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(*2*) In every such case, the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the Court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.

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CHAPTER VII

PROCEDURE OF SECURITY GUARD COURTS

79. Presiding officer.—At every General Security Guard Court or Petty Security Guard Court, the senior member shall be the presiding officer.

80. Judge Attorneys, etc.—Every General Security Guard Court shall, and every Petty Security Guard Court may, be attended by a Judge Attorney or a Deputy Judge Attorney-General or an Additional Judge Attorney-General, or, if no such officer is available, an officer approved by the Judge Attorney-General or by any officer authorised in this behalf by the Judge Attorney-General.

81. Challenges.—(*1*) At all trials by a General Security Guard Court or by a Petty Security Guard Court, as soon as the Court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer, sitting on the Court.

(*2*) If the accused objects to such officer, his objection and also the reply thereto of the officer objected to shall be heard and recorded, and the remaining officers of the Court shall, in the absence of the challenged officer, decide on the objection.

(*3*) If the objection is allowed by one half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner, by another officer subject to the same right of the accused to object.

(*4*) When no challenge is made, or when a challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the Court shall proceed with the trial.

82. Oaths of members, Judge Attorney and witness.—(*1*) An oath or affirmation in the prescribed manner shall be administered to every member of every Security Guard Court and to the Judge Attorney, or, as the case may be, the Deputy Judge Attorney-General or the Additional Judge Attorney-General or the officer approved under section 80, before the commencement of the trial.

(*2*) Every person giving evidence before a Security Guard Court shall be examined after being duly sworn or affirmed in the prescribed form.

(*3*) The provisions of sub-section (*2*) shall not apply where the witness is a child under twelve years of age and the Security Guard Court is of the opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

83. Voting by members.—(*1*) Subject to the provisions of sub-sections (*2*) and (*3*), every decision of a Security Guard Court shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(*2*) No sentence of death shall be passed by a General Security Guard Court without the concurrence of at least two-thirds of the members of the Court.

(*3*) In matters, other than a challenge or the finding or sentence, the presiding officer shall have a casting vote.

84. General rule as to evidence.—The Indian Evidence Act, 1872, (1 of 1872) shall, subject to the provisions of this Act, apply to all proceedings before a Security Guard Court.

85. Judicial notice.—A Security Guard Court may take judicial notice of any matter within the general knowledge of the members as officers of the Security Guard.

86. Summoning witnesses.—(*1*) The convening officer, the presiding officer of a Security Guard Court, the Judge Attorney or, as the case may be, the Deputy Judge Attorney-General or the Additional Judge Attorney-General or the officer approved under section 80 or the Commander of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(*2*) In the case of a witness who is subject to this Act, the summons shall be sent to his Commander and such officer shall serve it upon him accordingly.

(*3*) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such Magistrate shall give effect to the summons as if the witness was required in the Court of such a Magistrate.

(*4*) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

87. Documents exempted from production.—(*1*) Nothing in section 86 shall be deemed to effect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872) or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(*2*) If any document in such custody is, in the opinion of any District Magistrate, Chief Judicial Magistrate, Court of Session on High Court wanted for the purpose of any Security Guard Court, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(*3*) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause such search to be made for, and to detain such document pending the order of any such District Magistrate, Chief Judicial Magistrate, Court of Session or High Court.

88. Commissions for examination of witnesses.—(*1*) Whenever, in the course of a trial by a Security Guard Court, it appears to the Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such Court may address the Judge Attorney-General in order that a commission to take the evidence of such witness may be issued.

(*2*) The Judge Attorney-General may then if he thinks necessary, issue a commission to any Chief Judicial Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(*3*) The Magistrate or officer to whom the commission is issued, or, if he is the Chief Judicial Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in the trials of warrant-cases under the Code of Criminal Procedure, 1973 (2 of 1974).

(*4*) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XXIII-B of the Code of Criminal Procedure, 1973 (2 of 1974).

89. Examination of witness on commission.—(*1*) The prosecutor and accused person in any case in which a commission is issued under section 88 may respectively forward any interrogatories in writing which the Court may think relevant to the issue, and the Magistrate or officer executing the commission shall examine the witness upon such interrogatories.

(*2*) The prosecutor and the accused person may appear before such Magistrate or officer by counsel, or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(*3*) After a commission issued under section 88 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge, Attorney-General.

(*4*) On receipt of a commission, and deposition returned under sub-section (*3*), the Judge Attorney-General shall forward the same to the Court at whose instance the commission was issued or, if such Court has been dissolved, to any other Court conveaned for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused and shall form part of the proceedings of the Court.

(*5*) In every case in which a commission is issued under section 88, the trial may be adjourned for specified time reasonably sufficient for the execution and return of the commission.

90. Conviction of offence not charged.—A person charged before a Security Guard Court,—

(*a*) with desertion may be found guilty of attempting to desert or of being absent without leave;

(*b*) with attempting to desert may be found guilty of being absent without leave;

(*c*) with using criminal force may be found guilty of assault;

(*d*) with using threatening language may be found guilty of using insubordinate language;

(*e*) with any one of the offences specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 29 may be found guilty of any other of these offences with which he might have been charged;

(*f*) with an offence punishable under section 45 may be found guilty of any other offence of which he might have been found guilty, if the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), were applicable;

(*g*) with any offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment;

(*h*) with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

91. Presumption as to signatures.—In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

92. Appointment paper.—(*1*) Any appointment paper purporting to be signed by an appointing authority shall, in proceedings under this Act, be evidence of the person appointed having given the answers to questions which he is therein represented as having given.

(*2*) The appointment of such person may be proved by the production of the original or a copy of his appointment paper purporting to be certified to be a true copy by the officer having the custody of the appointment paper.

93. Presumption as to certain documents.—(*1*) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any unit of the Security Guard, or respecting the circumstances of any person not having served in, or belonged to, any unit of the Security Guard, if purporting to be signed by or on behalf of the Central Government or the Director-General, or by any other competent authority, shall be evidence of the facts stated in such letter, return or other document.

(*2*) A National Security Guard List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers and Assistant Commanders therein mentioned, and of any appointment held by them and of the group, unit or branch of the Security Guard to which they belong.

(*3*) Where a record is made in any unit book in pursuance of this Act or of any rules or otherwise in the discharge of official duties, and purports to be signed by the Commander or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(*4*) A copy of any record in any unit book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(*5*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any unit of the Security Guard, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the Commander of the unit to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be evidence of the matters so stated.

(*6*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(*7*) (*a*) Any document purporting to be a report under the hand of a Government scientific expert to whom this sub-section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquiry, trial or other proceeding under this Act.

(*b*) The Security Guard Court may, if it thinks fit, summon and examine any such expert as to the subject matter of his report.

(*c*) Where any such expert is summoned by a Security Guard Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally depute any responsible person working with him to attend the Court if such officer is conversant with the facts of the case and can satisfactorily depose in the Court on his behalf.

(*d*) This sub-section applies to the Government scientific experts, for the time being specified in sub-section (*4*) of section 293 of the Code of Criminal Procedure, 1973 (2 of 1974).

94. Reference by accused to Government officer.—(*1*) If at any trial for desertion or absence without leave, over-staying leave or not rejoining when warned for service, the accused person states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn the proceedings until his reply is received.

(*2*) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the Court.

(*3*) If the Court is dissolved before the receipt of such reply or if the Court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

95. Evidence of previous convictions and general character.—(*1*) When any person subject to this Act has been convicted by a Security Guard Court of any offence, such Security Guard Court may inquire into and receive and record evidence of any previous convictions of such person, either by a Security Guard Court or by a Criminal Court, or any previous award of punishment under section 51 or section 53 or section 54 and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(*2*) The evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, books of Security Guard Courts or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(*3*) At a Summary Security Guard Court, the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

96. Lunacy of accused.—*(1*) Whenever, in the course of a trial by a Security Guard Court, it appears to the Court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the Act or knowing that it was wrong or contrary to Law, the Court shall record a finding accordingly.

(*2*) The presiding officer of the Court, or, in the case of a Summary Security Guard Court, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its finding under section 111, as the case may be.

(*3*) The confirming officer to whom the case is reported under sub-section (*2*) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another Security Guard Court for the offence with which he was charged.

(*4*) The authority to whom the finding of a Summary Security Guard Court is reported under sub-section (*2*), and a confirming officer confirming the finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(*5*) On receipt of a report under sub-section (*4*), the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

97. Subsequent fitness of lunatic accused for trial.—Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 96, any officer prescribed in this behalf, may—

(*a*) if such person is in custody under sub-section (*4*) of section 96, on the report of a medical officer that he is capable of making his defence, or

(*b*) if such person is detained in a jail under sub-section (*5*) of section 96, on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section, on a certificate of any two or more of the visitors of such asylum and if he is detained in any other place under that sub-section, on a certificate of the prescribed authority, that he is capable of making his defence,

take steps to have such person tried by the same or another Security Guard Court for the offence with which he was originally charged or, if the offence is a civil offence, by a Criminal Court.

98. Transmission to Central Government of orders under section 97.—A copy of every order made by an officer under section 97 for the trial of the accused shall forthwith be sent to the Central Government.

99. Release of lunatic accused.—Where any person is in custody under sub-section (*4*) of section 96 or under detention under sub-section (*5*) of that section,—

(*a*) if such person is in custody under the said sub-section (*4*), on the report of a medical officer, or

(*b*) if such person is detained under the said sub-section (*5*), on a certificate from any of the authorities mentioned in clause (*b*) of section 97 that in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

100. Delivery of lunatic accused to relatives.—Where any relative or friend of any person who is in custody under sub-section (*4*) of section 96 of under detention under sub-section (*5*) of that section desires that he should be delivered to his care and custody, the Central Government may, upon application by such relative or friend and, on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of, and, prevented from doing injury to himself or to any other officer, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

101. Order for custody and disposal of property pending trial.—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 Security Guard Court 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.

102. Order for disposal of property regarding which offence is committed.—(*1*) After the conclusion of a trial before any Security Guard Court, the Court or the officer confirming the finding or sentence of such Security Guard Court, or any authority superior to such officer, or in the case of a Summary Security Guard Court whose finding or sentence does not require confirmation, an officer not below the rank of a Deputy Inspector-General within whose command the trial was held, 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 India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

(*3*) 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 person, 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.

103. Powers of Security Guard Court in relation to proceedings under the Act.—Any trial by a Security Guard Court under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Security Guard Court shall be deemed to be a Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

CHAPTER VIII

CONFIRMATION AND REVISION

104. Finding and sentence not valid, unless confirmed.—No finding or sentence of a General Security Guard Court or a Petty Security Guard Court shall be valid except so far as it may be confirmed as provided by this Act.

105. Power to confirm finding and sentence of General Security Guard Court.—The findings and sentences of General Security Guard Courts may be confirmed by the Central Government or by any officer empowered in this behalf by warrant of the Central Government.

106. Power to confirm finding and sentence of Petty Security Guard Court.—The findings and sentences of Petty Security Guard Courts may be confirmed by an authority or officer having power to convene a General Security Guard Court or by any officer empowered in this behalf by warrant of such authority or officer.

107. Limitation of powers of confirming authority.—A warrant issued under section 105 or section 106 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

108. Power of confirming authority to mitigate, remit or commute sentences.—Subject to such restrictions, reservations or conditions, as may be contained in any warrant issued under section 105 or section 106, a confirming authority may, when confirming the sentence of a Security Guard Court, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 47 or may set aside the proceedings of the trial if found to be illegal.

109. Revision of finding or sentence.—(*1*) Any finding or sentence of a Security Guard Court which requires confirmation may be once revised by the order of the confirming authority and on such revision, the Court, if so directed by the confirming authority, may take additional evidence.

(*2*) The Court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(*3*) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the Court shall proceed with the revision, provided that, if a General Security Guard Court, it still consists of five officers, or, if a Petty Security Guard Court, of three officers.

110. Finding and sentence of a Summary Security Guard Court.—The finding and sentence of a Summary Security Guard Court shall not require to be confirmed, but may be carried out forthwith.

111. Transmission of proceedings of Summary Security Guard Court.—The proceedings of every Summary Security Guard Court shall, without delay, be forwarded to the officer not below the rank of a Deputy Inspector-General within whose command the trial was held, or to the prescribed officer, and such officer, or the Director-General or any officer empowered by him in this behalf may, for reasons based on the merits of the case, but not on merely technical grounds, set aside the proceedings, or reduce the sentence to any other sentence which the Court might have passed.

112. Alteration of finding of sentence in certain cases.—(*1*) Where a finding of guilty by a Security Guard Court, which has been confirmed or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 124 to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such findings could have been validly made by the Security Guard Court on the charge and unless it appears that the Security Guard Court must have been satisfied of the facts establishing the said offence.

(*2*) Where a sentence passed by a Security Guard Court which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (*1*), is found for any reason to be invalid, the authority referred to in sub-section (*1*) may pass a valid sentence.

(*3*) The punishment awarded by a sentence passed under sub-section (*1*) or sub-section (*2*) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(*4*) Any finding substituted, or any sentence passed under this section shall, for the purposes of this Act and the rules, have effect as if it were a finding or sentence, as the case may be, of a Security Guard Court.

113. Remedy against order, finding or sentence of Security Guard Court.—(*1*) Any person subject to this Act who considers himself aggrieved by any order passed by any Security Guard Court may present a petition to the officer or authority empowered to confirm any finding or sentence of such Security Guard Court, and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(*2*) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Security Guard Court which has been confirmed, may present a petition to the Central Government, the Director-General, or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the Director-General, or the prescribed officer, as the case may be, may pass such order thereon as it or he thinks fit.

114. Annulment of proceedings.—The Central Government, the Director-General or an Inspector-General may annul the proceedings of any Security Guard Court on the ground that they are illegal or unjust.

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CHAPTER IX

EXECUTION OF SENTENCES, PARDONS, REMISSIONS, ETC.

115. Form of sentence of death.—In awarding a sentence of death, a Security Guard Court shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

116. Commencement of sentence of imprisonment.—Whenever any person is sentenced by a Security Guard Court under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the presiding officer, or in the case of a Summary Security Guard Court, by the Court:

Provided that the period of detention or confinement, if any undergone by an accused person, during the investigation, inquiry or trial of the case in which he is sentenced and before the date on which the original proceedings were signed shall be set-off against the term of his sentence and the liability of such person to undergo imprisonment shall be restricted to the remainder, if any of the term of his sentence.

117. Execution of sentence of imprisonment.—(*1*) Whenever any sentence of imprisonment is passed under this Act by a Security Guard Court or whenever any sentence of death is commuted to imprisonment, the confirming officer, or in case of a Summary Security Guard Court the officer holding the Court or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (*3*) and (*4*), direct that the sentence shall be carried out by confinement in a civil prison.

(2) When a direction has been made under sub-section (*1*), the Commander of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(*3*) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a Security Guard Court, the appropriate officer under sub-section (*1*) may direct that the sentence shall be carried out by confinement in Security Guard custody instead of in a civil prison.

(*4*) On active duty, a sentence of imprisonment may be carried out by confinement in such place as the Deputy Inspector-General within whose command the person sentenced is serving or any prescribed officer, may, from time to time, appoint.

118. Temporary custody of offender.—Where a sentence of imprisonment is directed to be undergone in a civil prison the offender may be kept in Security Guard custody or in any other fit place, till such time as it is possible to send him to a civil prison.

119. Execution of sentence of imprisonment in special cases.—Whenever, in the opinion of an officer not below the rank of a Deputy Inspector-General within whose command the trial is held, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in Security Guard custody in accordance with the provisions of section 117, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

120. Conveyance of prisoner from place to place.—A person under sentence of imprisonment may, during his conveyance from place to place, or when on board a ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

121. Communication of certain orders to prison officers.—Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed, to the officer in charge of the prison in which such person is confined.

122. Execution of sentence of fine.—When a sentence of fine is imposed by a Security Guard Court under section 45, a copy of such sentence signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any Magistrate in India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), as if it were a sentence of fine imposed by such Magistrate.

123. Informality or error in the order or warrant.—Whenever any person is sentenced to imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of informality or error in, or as respects, the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or, is confined in any such place, and any such order, warrant or document may be amended accordingly.

124. Pardon and remission.—When any person subject to this Act has been convicted by a Security Guard Court of any offence, the Central Government or the Director-General or, in the case of a sentence, which he could have confirmed or which did not require confirmation, an officer not below the rank of a Deputy Inspector-General within whose command such person at the time of conviction was serving, or the prescribed officer may,—

(*a*) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

(*b*) mitigate the punishment awarded; or

(*c*) commute such punishment for any less punishment or punishments mentioned in this Act; or

(*d*) either with or without conditions which the person sentenced accepts, release the person on parole.

125. Cancellation of conditional pardon, release on parole or remission.—(*1*) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon, release or remission had not been granted.

(*2*) A person whose sentence of imprisonment is carried into effect under the provisions of sub-section (*1*) shall undergo only the unexpired portion of his sentence.

126. Suspension of sentence of imprisonment.—(*1*) Where a person subject to this Act is sentenced by a Security Guard Court to imprisonment, the Central Government, the Director-General or any officer empowered to convene a General Security Guard Court may suspend the sentence whether or not the offender has already been committed to prison or to Security Guard custody.

(*2*) The authority or officer specified in sub-section (*1*) may, in the case of an offender so sentenced, direct that until the orders of such authority or officer have been obtained the offender shall not be committed to prison or to Security Guard custody.

(*3*) The powers conferred by sub-sections (*1*) and (*2*) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

127. Orders pending suspension.—(*1*) Where the sentence referred to in section 126 is imposed by a Security Guard Court, other than a Summary Security Guard Court, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to Security Guard custody until the orders of the authority or officer specified in section 126, have been obtained.

(*2*) Where a sentence of imprisonment is imposed by a Summary Security Guard Court, the officer holding the trial may make the direction referred to in sub-section (*1*).

128. Release on suspension.—Where a sentence is suspended under section 126, the offender shall forthwith be released from custody.

129. Computation of period of suspension.—Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

130. Order after suspension.—The authority or officer specified in section 126 may, at any time while a sentence is suspended, order**—**

(*a*) that the offender be committed to undergo the unexpired portion of the sentence; or

(*b*) that the sentence be remitted.

131. Reconsideration of case after suspension.—(*1*) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 126, or by any officer not below the rank of a Deputy Inspector-General duly authorised by the authority or officer specified in section 126.

(*2*) Where on such reconsideration by the officer so authorised it appears to him that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 126.

132. Fresh sentence after suspension.—Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then**—**

(*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 to prison or Security Guard custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(*c*) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 130 or section 131 continue to be suspended.

133. Scope of power of suspension.—The powers conferred by sections 126 and 130 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

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134. Effect of suspension and remission on dismissal.—(*1*) Where in addition to any other sentence the punishment of dismissal has been awarded by a Security Guard Court, and such other sentence is suspended under section 126, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 126.

(*2*) If such other sentence is remitted under section 130, the punishment of dismissal shall also be remitted.

CHAPTER X

MISCELLANEOUS

135. Rank structure.—(*1*) The officers and other members of the Security Guard shall be classified in accordance with their ranks in the following categories, namely:—

(*a*) officers—

(*i*) Director-General.

(*ii*) Additional Director-General.

(*iii*) Inspector-General.

(*iv*) Deputy Inspector-General.

(*v*) Group Commander.

(*vi*) Squadron Commander.

(*vii*) Team Commander

(*b*) Assistant Commanders—

(*viii*) Assistant Commander Grade I.

(*ix*) Assistant Commander Grade II.

(*x*) Assistant Commander Grade III.

(*c*) person other than officers and Assistant Commanders—

(*xi*) Ranger Grade I.

(*xii*) Ranger Grade II.

(*xiii*) Combatised tradesmen.

(*2*) The matters relating to *inter se* seniority of persons belonging to the same rank shall be determined in accordance with such rules as may be prescribed.

(*3*) Notwithstanding anything contained in this Act, the Director-General may, subject to confirmation by the Central Government as provided hereinafter, grant to an officer or Assistant Commander Grade I a rank, mentioned in clause (*a*) of sub-section (*1*) as a local rank, whenever considered necessary by him in the interest of better functioning of the Security Guard.

(*4*) An officer or Assistant Commander Grade I holding a local rank,—

(*a*) shall exercise the command and be vested with powers of an officer holding that rank;

(*b*) shall cease to hold that rank, if the grant of such rank is not confirmed within one month by the Central Government, or when so ordered by the Director-General or when he ceases to hold the appointment for which the rank was granted;

(*c*) shall not be entitled to claim any seniority over other officers by virtue of his having held such local rank; and

(*d*) shall not be entitled to any extra pay for holding such rank.

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136. Deduction from pay and allowances.—(*1*) Subject to the provisions of sub-section (*4*), the following deductions may be made from the pay and allowances of an officer, that is to say—

(*a*) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given and accepted by the Inspector-General under whom he is for the time being serving, and for every day of imprisonment awarded by a Criminal Court or a Security Guard Court;

(*b*) any sum required to make good the pay of any person subject to this Act which the officer has unlawfully retained or unlawfully refused to pay;

(*c*) any sum required to be paid as fine imposed by a Criminal Court;

(*d*) any sum required to make up any loss, damage or destruction of public property or property belonging to the Security Guard which, after due investigation, appears to the Inspector-General under whom the officer is for the time being serving, to have been occasioned by wrongful act or negligence on the part of the officer;

(*e*) any sum required by an order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or step-child or towards the cost of any relief given by the said Government to the said wife or child.

(*2*) Subject to the provisions of sub-section (*4*), the following deductions may be made from the pay and allowances of a person subject to this Act, other than an officer, that is to say,—

(*a*) all pay and allowances due to him for every day of absence either on desertion or without leave unless a satisfactory explanation has been given and accepted by his Commander and for every day of imprisonment awarded by a Criminal Court, a Security Guard Court or an officer exercising authority under section 51;

(*b*) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(*c*) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property or any private fund of the Security Guard as may be awarded by his Commander;

(*d*) any sum required to be paid as fine imposed by a Criminal Court;

(*e*) any sum required by an order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or step-child or towards the cost of any relief given by the said Government to the said wife or child.

(*3*) (*i*) No person shall be treated as absent or under imprisonment for a day unless the absence or imprisonment has lasted, whether wholly in one day or partly in one day and partly in another, for six consecutive hours or upwards.

(*ii*) Any absence or imprisonment for less than a day may be reckoned as absence or imprisonment for a day if such absence or imprisonment prevented the absentee from fulfilling any duty as a member of the Security Guard which was thereby thrown upon some other member.

(*4*) The total deductions from the pay and allowances of a person made under clauses (*b*) to (*e*) of sub-section (*1*) or clauses (*b*) to (*e*) of sub-section (*2*) shall not, except where he is sentenced to dismissal, exceed in any one month, one-half of his pay and allowances for that month.

(*5*) Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

(*6*) The following shall be the authorities competent to order deductions from pay and allowances under this Act, namely:—

(*a*) Commanders not below the rank of Group Commanders, in the case of persons other than officers;

(*b*) Inspector-General, in the case of officers.

(*7*) Any authority superior to the one ordering any deduction under this Act shall be competent to remit the whole or part of the said deduction.

(*8*) Any power conferred by the provisions of this section on an officer may be exercised by an officer or authority superior in command to the first mentioned officer.

137. Powers and duties conferable and imposable on members of the Security Guard.—(*1*) The Central Government may, by general or special order published in the Official Gazette, direct that, subject to such conditions and limitations as may be specified in the order, any member of the Security Guard may exercise or discharge such of the powers or duties under any Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by such Central Act empowered to exercise or discharge for the said purposes.

(*2*) The Central Government may, by general or special order published in the Official Gazette, confer or impose, with the concurrence of the State Government concerned, any of the powers or duties which may be exercised or discharged under a State Act by a police officer upon a member of the Security Guard who, in the opinion of the Central Government, holds a corresponding or higher rank.

(*3*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

138. Protection for acts of members of the Security Guard.—(*1*) In any suit or proceeding against any member of the Security Guard for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(*2*) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved the member of the Security Guard shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(*3*) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Security Guard for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules, shall be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of such proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

139. Power to make rules.—(*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which the Security Guard shall be constituted and the conditions of service of its members under sub-section (*1*) of section 4;

(*b*) the nature of the book or letter or other document, the communication or publication whereof would not be restricted by sub-section (*1*) of section 12;

(*c*) the purposes other than political purposes for which a person subject to the Act shall not participate in, or address, any meeting or demonstration under sub-section (*2*) of section 12;

(*d*) the purposes for which the forfeiture of service as a punishment may be inflicted under sub-section (*1*) of section 47;

(*e*) the manner in which officers may be proceeded against under section 53 and sub-sections (*1*) and (*2*) of section 54;

(*f*) the manner in which and the period for which any person subject to this Act may be taken into and detained in Security Guard custody pending his trial under sub-section (*4*) of section 56;

(*g*) the manner in which a Court of inquiry enquiring into the absence of person, shall administer oath or affirmation under sub-section (*1*) of section 60;

(*h*) the manner in which a vacancy may be filled in on the retirement of a member of General Security Guard Court or a Petty Security Guard Court under sub-section (*3*) of section 81;

(*i*) the manner in which oath or affirmation shall be administered to the members of the Security Guard Courts and the Judge Attorney, etc., under sub-section (*1*) of section 82;

(*j*) the manner in which a person giving evidence before a Security Guard Court shall be sworn or affirmed in under sub-section (*2*) of section 82;

(*k*) the manner in which a Security Guard Court when convicting a person may inquire into under sub-section (*1*) of section 95;

(*l*) the manner in which an accused person shall be kept in custody under sub-section (*4*) of section 96;

(*m*) the form of the warrant which shall be forwarded to the officer in charge of the prison in which a person under sentence of imprisonment is to be conferred under sub-section (*2*) of section 117;

(*n*) the person who shall forward the warrant for the confinement of a person in a civil prison under section 121;

(*o*) the matters relating to *inter se* seniority of persons belonging to the same rank under sub-section (*2*) of section 135;

(*p*) the authorities or officers to be prescribed under section 7, sub-section (*2*) of section 10, sub-section (*1*) of section 12, section 77, section 97, section 111, sub-section (*2*) of section 113, sub-sections (*1*), (*2*) and (*4*) of section 117 and section 124;

(*q*) any other matter which is to be, or may be, prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary for the proper implementation of this Act.

(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

140. Provisions as to existing National Security Guard.—(*1*) The National Security Guard in existence at the commencement of this Act shall be deemed to be the Security Guard constituted under this Act.

(*2*) The members of the National Security Guard in existence at the commencement of this Act shall be deemed to have been appointed as such under this Act.

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(*3*) Anything done or any action taken before the commencement of this Act in relation to the constitution of the National Security Guard referred to in sub-section (*1*), in relation to any person appointed, shall be as valid and as effective in law as if such thing or action was done or taken under this Act:

Provided that nothing in this sub-section shall render any person guilty of any offence in respect of anything done or omitted to be done by him before the commencement of this Act.

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