

In the Name of Allah, the Gracious, the Merciful

The Armed Forces Bill, 2007

Be it hereby approved, by the National Assembly, and signed, by the President of the Republic, in accordance with the provisions of the Interim National Constitution of the Republic of the Sudan, 2005, the following Act :-

Part I

Administration and Structures of the Armed Forces

Chapter I

Preliminary Provisions

Title and commencement

1. This Act may be cited as the, "Armed Forces Act, 2007", and shall come into force, as of the date of signature .

Repeal and saving

2. As of the date of coming into force of this Act, the People's Armed Forces Act, 1406, A.H. , and the Rules of Procedure, 1405, A.H. shall be repealed; provided that the regulations and orders and Procedure taken thereunder shall remain in force, until revoked , or revoked under the provisions of this Act.

Interpretation

3. In this Act, unless the context otherwise requires:-
"Appointment", means selection, for work in the ranks of the Armed Forces, in respect of an officers;

- " Commander ",** means the officer, or non-commissioned officer, who performs the business of the commander, at any separate part of the Armed Forces, or any other force composed under any law, or regulations applicable to such part;
- " Command Council",** means the Command Council of the Armed Forces, established in accordance with the provisions of section 13;
- "Commander in Chief",** means the superior office, who assumes command of the Armed Forces, and appointed under section 10(1);
- " Competent authority",** is the higher command, under the command of which the intended measure is done, and enters within its competence;
- "Confirming authority",** is the military, or political authority, which has the right, under this Act, to confirm the judgements and decisions, passed against the personnel;
- " Disciplined Forces",** mean the Police Forces and the National Security Forces;

- " Enemy",** includes the enemy from outside the country, and rebels, who are outlaws and armed bands, which are in the state of readiness for armed operations, that threaten the security and safety of the homeland;
- " Emergency, or standby",** means the period specified for establishment of the state of emergency, in the declaration issued by the Presidency, or any legally authorized person therefor, or upon declaration of war;
- "Force",** means any force detached from the Armed Forces, which has to discharge any of the military missions indepently assigned to the Armed Forces, for a specific period of time;
- " Formation",** means what exceeds a unit at the Battalion level, and includes a Brigade, Company and Army, according to their military definition internationally known;
- " Guard",** means any person assigned with the tasks of guarding any facilities, personnel, military accoutrements, or otherwise, at the time of peace, or war;
- "Imprisonment",** means any penalty depriving freedom, spent by the sentenced person in the military, or civilian prison, upon judgement passed by a court martial, or civil court;
- " Joint Staff Headquarters",** mean the Joint Staff Headquarters, established in accordance with the provisions of section 11(1);

- " Lawful order",** means any order issued, by the superior officer, to the subordinates, in such way, as may not be inconsistent with the provisions of this Act, or any other punitive law in force;
- " Legal Officer",** means the officer, who satisfies the conditions set forth in section 43, and has passed the legal profession (organization) examination;
- " Lighter penalty",** means any penalty, which is next to the penalty concerned, according to the arrangement of penalties, set out in section 125;
- " Main forces",** include the infantry, airforces , air defense, marine forces, and any other forces, to be established by law;
- " Military detention",** means confinement, under the provisions of this Act, for the purposes of inquiry, investigation or trial;
- " Military Inspection Authority",** means the authority, established in accordance with the provisions of section 38;
- " Military instruments, or accoutrements",** include any instruments, or accoutrements owned by the Armed Forces, and include also any instruments, or accoutrements in possession of any person, for transport and delivery of the same, to any unit of the Armed Forces, and include the personnel instruments and accoutrements;

- " Military Prosecutor General",** the legal officer, who presides the Military Prosecution ;
- " Military Prosecutor",** means any legal officer, assigned with the Military Prosecution business ;
- " Military titles",** mean the military titles , awarded to officers, according to the academic qualification, in accordance with the regulations and systems;
- " Minister" ,** means the Minister of Defense;
- " Non-commissioned officer",** includes all ranks, from Lance Corporal to Warrant Officer;
- " Non-military court" ,** means any court having jurisdiction, which exercises its powers inside the Sudan, whether constitutional, criminal, civil, Sharia or administrative; otherwise than courts martial, established under this Act;
- " Offence and Contravention"** mean any act, or omission punishable under the provisions of this Act;
- " Officer",** means any person in possession of a commission, under this Act;
- " Other ranks",** include all personnel, other than officers;
- " Personnel",** include officers, non-commissioned officers and soldiers;
- " Recruitment",** means joining the ranks of the Armed Forces, in respect of non-commissioned officers and soldiers;
- " Removal",** means demotion to any rank, lower than the rank held by the personnel;
- " Reserve",** means the force composed in pursuance of the Reserve and Mobilization Service Act, 1982, or any law, as may replace the same, or by a decision of the President of Republic ;

“Sentinel”,	means the Personnel assigned with guarding any military, or civil post, during his sentry-go;
"Severe reproof",	means the open reproof, which is published in the military orders, or declared in a general military file, and the regulations and systems shall specify the provisions thereof;
"Simple reproof",	means the non-declared reproof, and the regulations and systems shall specify the provisions thereof;
"Soldier",	means any personnel, otherwise than from officers and non-commissioned officers;
"Stripping",	means deprivation of any military rank;
"Superior officer",	includes personnel of any rank higher in respect of any person subject to the provisions of this Act;
"Supreme Commander",	means the President of the Republic;
"Systems",	include regulations and standing orders and instructions and circulars;
"Unit",	means any military force having a section for command and administration, and subordinates, established upon a permitted ranks and does not exceed a Battalion.
"Wage ",	includes the total wage and any other financial entitlements.

Persons subject to the provisions of this Act

- 4.(1) There shall be subject to the provisions of this Act, the following persons :-**
- (a) officers of the Armed Forces;**

- (b) non-commissioned officers and soldiers of the Armed Forces;
 - (c) students of the military colleges, institutes, centres and schools;
 - (d) any person appointed, or recruited under this Act;
 - (e) prisoners of war, in accordance with international agreements;
 - (f) any person under confinement, by reason of investigation, or inquiry, and also a military prisoner in a military barrac;
 - (g) personnel of allied forces, or those attached thereto, where they reside in the Sudan territories, unless there is a special, or international treaty, or agreement, which rules otherwise;
 - (h) any person accused of committing one of the offences provided for in Chapter II, of Part III, hereof, in the following cases :-
 - (i) the accused holding the Sudanese nationality;
 - (ii) the accused being present in the Sudan after committing the offence;
 - (iii) the victim being of Sudanese nationality;
 - (iv) the offence being committed totally, or partially in the Sudan, in its territorial waters, or air space, or on aircrafts, or vessels, which hoist the Sudanese flag.
- (2) The Disciplined Forces, or personnel, who are merged with the Armed Forces, by a Decision of the President of the Republic, upon declaration of the state of emergency .

Composition and structures of the Armed Forces

- 5.(1) The Armed Forces are disciplined forces of national composition, constituted of the Sudanese persons, to whom the conditions of joining them apply, without discrimination, by reason of sex, religion or ethnicity .
- (2) The Armed Forces are composed of working forces and reserve forces, as the President of the Republic may prescribe, upon recommendation of the Minister of Defense.
- (3) The working forces consist of:-

- (a) the infantry forces;
 - (b) the air forces and air defense forces;
 - (c) the marine forces;
 - (d) any other forces, as the laws and regulations may specify;
 - (e) any other forces, as may be merged into the Armed Forces, under any law.
- (4) The Regulations, systems and instructions shall specify the size, deployment, openness and command of such forces.

Chapter II

The Armed Forces, Targets and Duties, Composition

Structures Targets and duties of the Armed Forces

- 6.(1) Sudanese Armed Forces are military forces of national composition and the target, and mission thereof is protection of sovereignty of the country, and securing safety of its territories, and participating in construction thereof, and assisting in facing national disasters and protection or the Nation's gains, and defense of the constitutional regime.
- (2) They help law enforcement organs, upon need, in the time of peace and emergencies, in accordance with the provisions of the law; and shall have for the sake of that, such powers and legal protection, as may be granted to such forces.
- (3) They contribute to construction and economic and social development, in such way, as may not be inconsistent with their basic duties, at the time of peace and war.
- (4) They strive to originalize, heighten and enshrine the values of religion and national instruction, and the spirit of good citizenship, and allegiance to the higher interests of the country.

- (5) They call for piety, morals and honourable values, and strengthening the spirit of unity, allegiance and citizenship among their personnel.
- (6) They strive to promote the human, material and scientific potentialities thereof.
- (7) They participate in entrenchment and protection of international peace and security, in implementation of the moral obligations, and the international and regional covenants and treaties.

General principles

- 7.(1) Personnel of the Armed Forces of all ranks , during exercising the functions of their posts, shall fully comply with the following :-
 - (a) the values of the pure religion, and respect all the heavenly religions, and good beliefs ;
 - (b) the Human Rights Bill prescribed in the Constitution;
 - (c) principles of the international humanitarian law, included into the ratified agreements;
 - (d) respect of the Constitution;
 - (e) abidance by moralities of combat, and the war customs prescribed in the heavenly religions, and international covenants.
- (2) The personnel, during discharge of their duties, or missions in general, shall be guided by the following :-
 - (a) promotion of the spirit of justice and equality among subordinates;
 - (b) spreading morality and sublime values;
 - (c) positive reaction to the issues of the community and endeavouring to promote the same, within the limits of the law;
 - (d) creation of the spirit of co-operation and harmony, and enshrining unity of the objective with the other disciplined forces;

- (e) grafting the spirit of patriotism and national unity among the personnel;
- (f) giving due regard to the enshrined local customs , and entrenchment of respecting the same, within the limits of the law.

Chapter III

Command and Control

Supreme Commander

- 8. The Armed Forces shall be under the supreme command of the President of the Republic, and he/she shall solely have competence on the following, to :-
 - (a) specify the military political target;
 - (b) issue directions of the military policy, to the Minister of Defense;
 - (c) declare war, in accordance with the provisions of the Constitution and the law;
 - (d) declare the state of emergency, or standby.

Powers and tasks of the Minister of Defense

- 9. Without affecting the supreme command of the President of the Republic, provided for in section 8, the Minister shall have the following functions, to :-
 - (a) prepare the strategic policies, plans and programmes, and projects of preparing the State for defense;

- (b) pass the budget proposals, and follow-up approval of the same, and supervise management of the Armed Forces funds, in accordance with the systems and regulations, which govern financial transaction;
- (c) dispose of the budget, in such manner, as may achieve the general purposes and targets, relating to the Armed Forces, in such way, as may secure enhancement and good management , and ideal utilization;
- (d) be responsible for the general performance of the Armed Forces, to the Executive and Legislative authorities;
- (e) plan and supervise supply of the Armed Forces with all their needs, and conclude contracts and agreements, relating thereto ;
- (f) represent the Armed Forces in all the organs , corporations and companies, connected to the work of the Armed Forces;
- (g) establish and assume responsibility for the economic and human development institutions, which help the Armed Forces in executing the tasks of the same;
- (h) be responsible for the international relations having connection;
- (i) approve and make the regulations and systems;
- (j) any other tasks, as a higher competent body may entrust thereto .

Powers and tasks of the Commander in Chief

- 10.(1) The Armed Forces shall have a Commander in Chief, to be appointed by the President of the Republic .
- (2) Without affecting the powers of the Supreme Commander, and the Minister Defense, the Commander in Chief shall have competence on the following, to :-
- (a) implement the national defense policy, and other policies, having connection with defense;
 - (b) assess the military strategic position, and execute the strategic missions;

- (c) supervise the implementation of the polices of employment and strategic distribution of the forces, and assume the strategic direction to achieve such targets;
- (d) supervise the preparation of the plans and programmes, necessary to enable the Armed Forces to discharge their missions and duties, and organize and modernize the same, to achieve the same targets;
- (e) appoint the Chief and members of the Joint Staff Headquarters, in consultation with the Minister, and approval of the Supreme Commander;
- (f) any other tasks , as a higher competent body may assign thereto .

Establishment and functions of the Joint Staff Headquarters

- 11.(1) A Joint Staff Headquarters of the Armed Forces shall be established, the constitution and way of operation of which shall be specified by the regulations and systems , and be responsible, to the Commander in Chief, for the good performance of the tasks thereof.
- (2) Without affecting the powers of the Commander in Chief , the Joint Staff Headquarters shall have competence on the following, to :-
- (a) manage, recruit, organize, prepare and qualify the forces, and follow-up their discharge of the duties thereof, and prepare the elaborate polices and programmes, relating thereto;
 - (b) implement the plans of the strategic employment and distribution of the forces, and assume the strategic direction, to achieve such targets;
 - (c) prepare the plans and programmes, necessary for enabling the Armed Forces to discharge their tasks and duties, and organize and modernize the same, to achieve the same targets;
 - (d) manage the strategic missions of the Armed Forces, in the framework of the strategic military target;

- (e) evaluate the prescribed military policy, in the light of the practical application of such policy, and present any recommendations, to be submitted to the Minister of Defense, to approve the same;
 - (f) be responsible for readiness of the Armed Forces;
 - (g) any other tasks, as a higher competent may entrust thereto.
- (3) The regulations and systems shall specify the elaborate tasks, to execute such responsibilities.

Powers and tasks of the Chief of Joint Staff

12. Without affecting the powers of the Commander in Chief , the Chief of Joint Staff shall have competence on the following, to :-
- (a) co-ordinate between the main forces, in the administrative, organizational, qualification, preparation and operational matters;
 - (b) assume the responsibility for laying down the military strategic decision, for employment of the Armed Forces in execution;
 - (c) issue the operations directions and whatever may result thereof, to the main forces, administrations and commands;
 - (d) directly follow-up the performance of the Armed Forces, and their discharge of the duties thereof, within the framework of the targets specified therefor;
 - (e) follow-up and co-ordinate all the matters , relating to the readiness of the forces, and submit the joint plans of the main forces, prescribed by the Joint Staff Headquarters, to the Commander in Chief;
 - (f) draft and submit the recommendations of the Joint Staff Headquarters, concerning the applied military policies;
 - (g) prepare the recommendations, pertaining to building the Armed Forces, and preparing them in both cases of peace and war;
 - (h) any other tasks, as a higher competent body may entrust thereto.

**Establishment and functions of the Armed
Forces Command Council**

- 13.(1) There shall be established a council, to be known as the, “Armed Forces Command Council”, and constituted as follows :-
- (a) the Minister of Defense, Chairperson;
 - (b) the Commander in Chief , deputy Chairperson;
 - (c) members of the Joint Staff Headquarters, members;
 - (d) other members, as the regulations and systems may specify, members.
- (2) The Command Council may call any person, to attend the meetings thereof, as the case may require.
- (3) The Command Council shall be competent to connect the Ministry of Defense, the Armed Forces Command and the Joint Staff Headquarters.
- (4) Without affecting the generality of the provision of sub-section (3), the Command Council shall have competence to strive to prepare the programmes and plans, pertaining to the following :-
- (a) development and management of human forces inside and outside the service in the Armed Forces;
 - (b) the needs, supply , provision, constructions and facilities;
 - (c) directives of military production, manufacturing and self-sufficiency;
 - (d) financial planning;
 - (e) directives of international relations having connection;
 - (f) national strategic planning for defense of the State;
 - (g) any other functions, as a higher competent body may entrust thereto.
- (5) The regulations and systems shall specify the elaborate tasks and meetings of the Command Council .

Chapter IV

Selection, Qualification, Appointment and Recruitment

General conditions of recruitment

14.(1) There shall be required of whoever joins service of the Armed Forces that he shall :-

- (a) be enjoying Sudanese nationality by birth;**
- (b) be of good morals, and have a previous convictions sheet free of any conviction of an offence involving honour, or honesty;**
- (c) be of health and physical fitness, which enables him/her to bear the burdens of recruitment;**
- (d) not be less than eighteen years of age, upon recruitment, or appointment;**
- (e) be literate;**
- (f) satisfy any academic, professional or vocational conditions, as the regulations and systems may specify.**

(2) Notwithstanding the provisions of sub-section (1), there shall be required of whoever may be selected for appointment as an officer, that he shall :-

- (a) be in possession of the academic, or technical certificate, at such level, as the regulations may specify;**
- (b) have passed the abilities tests;**
- (c) have satisfied any other conditions, as the regulations may specify .**

Selection and qualification of officers

15.(1) Selection of persons to work as officers shall be through free competition, relying upon merit and bearing the burdens of command; and the regulations shall specify the procedure of selection .

- (2) Notwithstanding the provisions of sections 14 and 15 , an officer may be selected from :-
- (a) university, higher institutes and technical colleges graduates and the regulations shall specify the procedure of selection;
 - (b) non-commissioned officers, working in the Armed Forces; and the regulations shall specify the conditions of selection and the manner of qualification and affiliation;
 - (c) any other professions, as the regulations and systems may specify.
- (3) The selected persons shall be qualified, at the military colleges, institutes and schools, as the regulations and systems may specify.

Award of commission and taking the oath

- 16.(1) Any person, who successfully completes the period of qualification, provided for in the Act, may be awarded the commission of an officer in the Armed Forces, by a decision of the President of the Republic.
- (2)The officers, who have been awarded the commission, by the President of the Republic, under sub-section (1), shall take the allegiance oath, provided for in this Act , before the Commander in Chief, or whoever he/she may authorize.

Other ranks

- 17.(1) The Chief of Joint Staff, or whoever he/she may authorize may recruit the other ranks in the Armed Forces, to fill the approved vacant posts.
- (2) The regulations and systems shall specify the manner of recruitment and conditions of selection , and the period of training and period of service and the undertakings thereof.

Legal effect of appointment and recruitment

- 18.(1) There shall be deemed legally appointed, or recruited, every person, who signs the form prepared for recruitment; and shall not have the right to claim dismissal from service, upon justification that his appointment, or recruitment has not been legal .
- (2) Any person appointed, or recruited, in accordance with sub-section (1), above shall be subject to the provisions of this Act, the regulations , systems, orders and instructions, made thereunder, as of the date of his/her recruitment; or appointment.

Oath of allegiance

19. Every person, who has been awarded a commission, appointed, or recruited in the Armed Forces, shall take the following oath of allegiance :-
- (I swear by Almighty God to devote my life to God, the homeland and service of the People, truthfully and honestly, and dedicate my time and capacity throughout my period of service, to discharge the duties, laid upon my shoulder, under the Constitution and the Armed Forces Act, or any other law, or any regulations in force, and carry out any lawful order, issued to me by my superior officer, on land, sea or air, and exert the utmost of my effort to carry it out, even though that leads to sacrifice my life .)

Chapter V

Disciplined Ranks, Promotions, Secondment ,

Loan and Transfers

Disciplined ranks

- 20.(1) Disciplined ranks of officers of the Armed Forces shall be as follows :-
- (a) Field Marshal;

- (b) First Lieutenant-General;
 - (c) Lieutenant-General;
 - (d) Major-General;
 - (e) Brigadier;
 - (f) Colonel;
 - (g) Lieutenant-Colonel;
 - (h) Major;
 - (i) Captain;
 - (j) First Lieutenant;
 - (k) Lieutenant.
- (2) The rank of field marshal shall not be awarded, save to the President of the Republic, where he is military, or the Commander in Chief.
- (3) Disciplined ranks of non-commissioned officers and soldiers, in the Armed Forces, shall be as follows :-
- (a) Warrant Officer;
 - (b) Sergeant-Major;
 - (c) Sergeant;
 - (d) Corporal;
 - (e) Lance Corporal;
 - (f) Soldier;
 - (g) any other novel ranks.
- (4) The regulations and systems shall specify the military titles, and the manner of holding them.

Promotions

- 21.(1) Promotions of officers shall be made by decision of the President of the Republic.
- (2) Promotions of other ranks shall be approved by the body specified by the regulations.

- (3)The regulations shall specify the terms of service, and the procedure of promotion, from one rank to other .

Secondment , loan and transfers

- 22.(1) Personnel shall be seconded inside , or loaned outside, from those, who represent the Armed Forces, from those possessed of experience and competence , and selection shall be in accordance with the regulations and systems.
- (2) Transfers of personnel, between formations and units of the Armed Forces, shall be made in pursuance of the regulations and systems.

Chapter VI

Period and Termination of Military Service

Period of military service

- 23.(1) The period of service of any appointed, or recruited person shall terminate in accordance with the provisions of this Act.
- (2) A recruited personnel, upon termination of his/her service, shall be granted a certificate purporting his her previous service in the Armed Forces, as the regulations and systems may specify.
- (3) The Commander in Chief, or whoever he/she may authorize shall order, during the time of emergency, or for a necessity, as to the discretion thereof, extension of the period of service of any personnel.
- (4) Notwithstanding the provisions of sub-section (1), the Chief of Joint Staff, or whoever he/she may authorize, may upon recommendation of the competent authority, order remaining in service of any personnel of the Armed Forces, where the same is in the interest of service; provided that this remaining

shall be in accordance with the terms of service, as the regulations and systems may specify .

Reasons of termination of the military service of officers

24. The military service of an officer shall terminate by decision of the President of the Republic, upon recommendation of the Commander in Chief for any of the following reasons :-
- (a) loss of the Sudanese nationality, or acquiring the nationality of another state;
 - (b) death in fact, or by presumption;
 - (c) health unfitness for military service, by a decision of a competent medical committee;
 - (d) attainment of the age of retirement on pension, as the law, regulations or systems may specify;
 - (e) passing of a final judgement by a court martial of expulsion from service;
 - (f) passing of a final judgement of conviction of any offence involving honour, or honesty;
 - (g) his/her request to be relieved of service, and admission of his/her request;
 - (h) expiry of the maximum prescribed period of remaining in the rank, as the regulations and systems may specify;
 - (i) incompetence, in accordance with the written reports thereon, and recommendation of the Chief of Joint Staff;
 - (j) his/her unfitness in accordance with the regulations and systems;
 - (k) non-existence of a vacant post in the organizational and financial chart;
 - (l) desertion, as the regulations and systems may specify;
 - (m) passing of a final judgement against him/her of imprisonment of an offence , before a military, or non-military court.

Reasons of termination of the service of other ranks

25. The service of non-commissioned officers and soldiers shall terminate by a decision of the superior officer, as the regulations and systems may specify, for one of the following reasons :-
- (a) termination of the contract of service;
 - (b) health unfitness for military service;
 - (c) dismissal from service for misconduct;
 - (d) expulsion, upon judgement of a court martial, or summary one;
 - (e) attainment of retirement age, in accordance with the law, regulations and systems;
 - (f) death in fact, or by presumption;
 - (g) incompetence, in accordance with the reports written thereon by his/her commander, as the regulations and systems may specify;
 - (h) unfitness , as the regulations and systems may specify;
 - (i) desertion , as the regulations and systems may specify;
 - (j) conviction of an offence inconsistent with honour, or honesty;
 - (k) passing against him/her of a final judgement of imprisonment sentence in an offence for a term, not exceeding six months, before a military, or civil court ;
 - (l) non-existence of a vacant post in the organizational chart .

Chapter VII

Post-Service Benefits of Officers, Non-commissioned

Officers and Soldiers

Post-service benefits of officers, non-commissioned officers and soldiers

- 26.(1) The Armed Forces Officers Pensions Act, and the Armed Forces Non-commissioned Officers and Soldiers Pensions Act shall organize the manner, upon which entitlements of post-service benefits are obtained.
- (2) There shall be deprived of pension, or gratuity any personnel, against whom a final judicial sentence is passed of conviction of the offence of high treason, or mutiny .
- (3) There shall be deprived of the entitlement to post-service benefits any personnel, who deserts, as the regulations and systems may specify.

Removal

- 27.(1) The President of the Republic, upon recommendation of the Commander in Chief, subject to the safeguards, provided for in this Act, may remove any person, subject to the provisions of this Act.
- (2) Where the Commander in Chief, after perusal of a report from any competent authority, deems the trial of one off the officers is not practical, and staying of such officer in the force has become undesirable, he/she may submit a recommendation in this respect, to the President of the Republic, for his/her removal, after he/she has obtained from such officer on explanation of his position .

- (3) Where the Commander in Chief deems remaining of any officer in the force is undesirable, he may, after approval of the President of the Republic, and the matter does not deserve expulsion, or removal, either require such officer to present a resignation request for retirement, together with granting him/her what he/she is entitled to of pension, or gratuity under the Armed Forces Officers Pensions Act; and upon his/her refusing the same, such officer may be retired on pension, or removed from the force, together with granting him/her what he/she is entitled to of pension, or gratuity; on condition that he/she shall be availed the full chance to explain his position .
- (4) The Chief of Joint Staff , or whoever he/she may authorize, subject to the safeguards provided for in this Act, may remove any non-commissioned officer, or soldier from the force, in consideration of the requirements of the national security of the country, and demands of military order and discipline.

Consequences of termination of service

- 28.(1) Upon termination of service by expulsion, the same shall not necessarily entail deprivation of the due pension, or gratuity, unless there is issued therefor a decision of the President of the Republic, upon recommendation of the Minister, or a decision of the President of the Republic in case the Chief and members of the Joint Staff Headquarters, in case of commission of the offences of desertion and high treason .
- (2) Upon termination of service by dismissal, or retirement, or upon the request of the personnel, the same shall not necessarily entail deprivation of the due pension, or gratuity .

**Date of commencement of expulsion,
removal, or dismissal**

- 29.(1) The date of expulsion of an officer , being retired or upon retirement on pension shall commence, as of the date specified in the decision issued by the President of the Republic and published in the general orders.
- (2) The date of expulsion of a non-commissioned officer, or soldier, or his/her retirement on pension shall commence, as of the date specified in the decision, pertaining thereto, and be published in the general orders.

Non-retrospective effect of termination of service

30. Expulsion, or removal of an officer, a non-commissioned officer, or soldier, or his/her retirement on pension shall not in any way have a retrospective effect.

Chapter VIII

Salaries and Emoluments

Scale of salaries and wages

31. The financial regulations shall set forth the tables of salaries, wages, emoluments, increments and terms of service of the Armed Forces personnel, the ways of fixing the same, upon appointment, promotion, secondment, loan and otherwise of cases.

**Attachment or set-off of salaries, wages and
post-service benefits prohibited**

- 32.(1) Salaries, increments or entitlements of the Armed Forces personnel shall not be attached, or set-off, save as satisfaction of a final judgement passed by a competent court martial, or satisfaction of a debt proved by a judicial decree, and within the limits of one-quarter of the salary.

- (2) Notwithstanding the provisions of sub-section (1), any right may be satisfied, from any person, subject to the provisions of this Act, by any of the other ways of satisfaction .

Financial and accountancy procedure

33. The financial work in the Armed Forces shall be controlled, in accordance with the principles, directives and bases, provided for in the Financial and Accountancy Procedure Act 1977, or any other law , as may replace the same, or any regulations made thereunder .

Chapter IX

Legal Proceedings Against Personnel

Institution of legal proceedings against personnel

- 34.(1) There shall not be deemed an offence any act, which emanates from any officer, or soldier in good faith, in the course, or by reason of performing the business of his/her post, or discharge of any duty imposed thereon, or any act done thereby, under any power delegated, or conferred thereon, under the Criminal Procedure Act, or any other law in force, any regulations or orders made under any one of them.
- (2) No proceedings shall be taken against any officer, or soldier, who commits an act, which constitutes an offence, which occurs in the course, or by reason of his/her discharge of his/her duties , or carrying out of any lawful order, issued thereto in this capacity thereof, and he/she shall not be tried, save upon permission, issued by the President of the Republic, or whoever he may authorize.

- (3) Where the discharge of the duty, or carrying out of any other lawful order entails death, or injury, which requires Diya, the State shall bear payment of Diya, or compensation on behalf of the officer, or soldier, who acts in good faith, in accordance with the provisions of this section .
- (4) No person subject to the provisions of this Act shall litigate against his superior or inferior officer before civil courts , during and after their leaving service, for any direct, or indirect effects, as may have occurred thereto, in carrying out lawful orders, issued during performing their posts.

Judicial attachment

35. Courts shall not impose attachment, on the estates, property or movables of the Armed Forces.

Chapter X

Military Inspection

- 36.(1) There shall be established an authority, to be known as the, “Military Inspection Authority”, under the management and command of the Inspector General, and have the following functions, to :-
- (a) ensure the progress of work and performance in the Armed Forces, according to the policies, plans and programmes, in accordance with the laws and regulations;
 - (b) conduct all types of inspection for the purpose of ensuring the readiness and competence of the elements and units of the Armed Forces, professionally and technically , at all times;

- (c) help the Joint Staff Headquarters in taking the appropriate decisions, and laying down the strategic plans and programmes of the Armed Forces;**
- (d) transfer the experiments and experiences and positive features of the work of the various main forces and the formations, units and elements of the Armed Forces;**
- (e) ensure the quality control, conditions and standard specifications concerning the equipages, accoutrements, equipment, instruments and work aids of the Armed Forces, those procured, or locally available;**
- (f) assure the soundness of executing the financial performance , in all the elements, units and formations of the Armed Forces;**
- (g) assure the legitimacy of the various administrative procedure, actions and business, inside the Armed Forces;**
- (h) submit periodical reports, upon request, of the results of any inspection, as may be carried out, and specify the aspects of shortcomings and deviation, and submit the recommendations, pertaining to every case;**
- (i) prepare proposals of the regulations and directives of general and specialized inspection, and the amendments thereof, to the Joint Staff Headquarters, and follow-up approval and distribution of the same among the Armed Forces;**

- (j) any other tasks , as the Joint Staff Headquarters may assign thereto .
- (2) The regulations and systems shall specify organization of the Inspection Authority, and the elaborate tasks and duties thereof.

Chapter XI

Military Judicature

Composition of the Military Judicature

37. The Armed Forces shall have military judicature, independent in its judgements, according to the organization of the Armed Forces, and exercises the functions thereof, in accordance with the provisions of this Act and the regulations.

Competence of the Military Judicature

38. The Military Judicature shall have competence on any judicial, legal or justice work of the Armed Forces; and the law and regulations shall organize its relation with civil courts, prosecution bureaux, institutions and other justice utilities.

Indepence of business of the Military Judicature

- 39.(1) Officers of the Military Judicature shall exercise their judicial and legal business, in full independence, and there is no authority on them, in the judgemetns and consultancy thereof, save to the law; and they shall have full power in supervision and control of the organs technically subordinate thereto.

- (2) Legal opinions issued by the Military Judicature, on any legal matter, shall be binding on all organs and personnel of the Armed Forces , and the Commander in Chief shall have the right to revise such legal opinions.

Management of business of the Military Judicature

- 40.(1) Management of business of the Military Judicature shall be assumed by a legal officer, possessed of experience and competence.
- (2) Officers of the Military Judicature shall be from officers, possessed of legal competence, excellent reputation and testified to for distinction in their field .

Obtaining the title of Legal Officer

41. An officer obtains the title of Legal Officer where :-
- (a) he holds a university degree in law, from a recognized university;
 - (b) he passes the Legal Profession (Organization) Examination;
 - (c) he works at the Military Judicature, for a full year, and his work is satisfactory, from the technical side;
 - (d) approval has been issued in writing, by the Director of the Military Judicature, of his obtaining the title.

Immunity of officers of the Military Judicature

- 42.(1) Officers of the Military Judicature shall be subject to those superior thereto, in the scale of posts thereof, and the general rules of discipline.
- (2) Notwithstanding the provisions of sub-section (1), no investigation shall be conducted, against any of officers of the Military Judicature, nor committing them to military trial, save after the approval of the Commander in Chief .

Appointment of officers of the Military Judicature

43.(1) Without prejudice to the provisions of section 15(3), officers of the Military Judicature shall be appointed by the President of the Republic, upon recommendation of the Minister, from among graduates of faculties of law, who have passed the Legal Profession (Organization) Examination.

(2) Appointment, in the posts of officers of the Military Judicature, may be made from among officers, working in the Armed Forces, from the rank of Major, and below; on condition of obtaining a university degree in law, from a recognized university, and the certificate of the Legal Profession (Organization) Examination; and transfer shall be made by decision of the Chief of Joint Staff, upon recommendation of the Director of the Military Judicature, after spending the probation period of one year, to specify the extent of his fitness for legal and judicial work.

Professional rights and privileges of officers of the Military Judicature

44.(1) An officer of the Military Judicature shall be granted the power of authentication of contracts, in the field of official work in the Armed Forces, whenever he satisfies the legal conditions.

(2) An officer of the Military Judicature shall have the right to appear, before all Sudanese courts, of all the grades and classes thereof, in all the cases, in which the Armed Forces , or one of their personnel is a party thereof, and represent the Armed Forces, or their affiliates , in any other legal work.

(3) Officers of the Military Judicature may take judicial confessions, and dying declarations, in accordance with the safeguards, set out in the

Criminal Procedure Act , 1991, or any other law, as may replace it , in the offences, which enter within the competence thereof.

- (4) The Military Judicature shall have the symbol of the balance, and be worn with the symbol of the Armed Forces.

Right to practise advocacy

45. Officers of the Military Judicature, after termination of their military service, shall have the right to obtain advocacy licence ; and the period spent thereby, at the Military Judicature, shall be deemed a period of experience in the field of legal work, in such way, as may be compatible with the Advocacy Act.

Training

46. Officers of the Military Judicature shall be subject to such qualification and training system, as may secure knowledge of the law, at graded levels in ascendance of the necessary theoretical and practical legal knowledge, besides the sufficient amount of military sciences.

Secrecy of proceedings

47. Investigation procedure conducted by officers of the Military Judicature , and the results revealed thereby shall be deemed among secret, and shall not be disclosed.

Chapter XII

Military Manufacture and Economic Institutions

Management and promotion of military manufacture

48.(1) The Minister, under supervision of the President of the Republic, and with the help of whoever he may deem fit of competent persons, shall assume :-

- (a) management of military manufacture;
- (b) develop its potentialities;
- (c) make the regulations, systems and standing orders, which organize work of the Administration;
- (d) terms of service of employees .

(2) There shall be given due regard, in the work of the military manufacture, to the State's national strategy, and the international needs of the Armed Forces, as to the types of weapons, ammunitions and manufactured military equipment.

Management of economic institutions

49.(1) The Armed Forces, within the framework of the economic policies of the State, shall have the right to establish any economic or investment projects, and participate aiming at achievement of self-sufficiency, and welfare of the personnel, and shall be under the direct supervision of the Minister.

(2) The regulations and basic rules of such institutions shall specify the structures, boards of directors and capital thereof, appointment of the employees of the same, their terms of service and emoluments thereof.

Part II

Military Criminal Proceedings

Chapter I

Military Criminal Organs and their Powers

Branch I

Courts Martial

Types of courts martial

50. Courts martial shall be as follows :-
- (a) Military Court of Appeal;
 - (b) General Court Martial;
 - (c) Central Court Martial;
 - (d) Summary Court Martial;
 - (e) Major Field Court;
 - (f) Minor Field Court.

Jurisdiction of courts martial

- 51.(1) Courts martial shall be competent to determine the suits of personnel of the Armed Forces, for such offences and contraventions, as may be attributed thereto, in the course, or by reason of discharge of the duties thereof.
- (2) The unit commander, as the regulations may specify, may within one month of his/her notification, approve the trial of any of the personnel of his/her unit, before courts martial .
- (3) Where the commander of the accused personnel does not notify the court, within the period specified by sub-section (2) above, the court may commence trial of the personnel, after ascertaining the validity of notifying the commander of the personnel.

Constitution of courts martial

- 52.(1) The Chief of Joint Staff, or whoever he/she may authorize, shall constitute the Major and Minor Field Courts.
- (2) The Military Court of Appeal, General, Central and Summary Courts Martial shall be established by a decision issued by the Chief of Joint Staff, upon recommendation of the Director of Military Judicature.

The Military Court of Appeal

53. The Military Courts of Appeal shall be constituted of appeal circuits. Every circuit shall be constituted of a president and two members, from Legal Officers of appropriate ranks .

The General Court Martial and its powers

- 54.(1) The General Court Martial shall consist of three officers of appropriate ranks; provided that there shall be among them, a Legal Officer.
- (2) The General Court Martial shall have competence to consider any case against any person subject to the provisions of this Act, and shall have the power to pass any penalty thereunder .

The Central Court Martial and its powers

- 55.(1) The Central Court Martial shall consist of one Legal Officer, whose rank shall not be lower than the rank of Lieutenant-Colonel.
- (2) The Central Court Martial shall consider all the offences, provided for in this Act, and may pass the sentence of imprisonment, for a term, not exceeding seven years, or of fine, or any lighter penalty.

The Summary Court Martial and its powers

- 56.(1) The Summary Court Martial shall consist of one officer, whose rank shall not be lower than Major.
- (2) The Summary Court Martial shall consider the offences, provided for in this Act, and may pass a sentence of imprisonment, for a term , not exceeding three years, or of fine, or any lighter penalty .

The Major Field Court and its powers

- 57.(1) The Major Field Court shall consist of three officers of appropriate ranks ; provided that a Legal Officer shall be among its members .

- (2) The Major Field Court shall have jurisdiction to consider offences , and contraventions, which occur in the field, or connected therewith; and may inflict all the penalties provided for in this Act.
- (3) The sentences passed by the Major Field Court shall be confirmed by the Commander Chief, or whoever he may authorize, and he/she , upon confirmation, shall have the following powers, to :-
- (a) confirm the decision and sentence;
 - (b) quash all the penalties, or part thereof, of whatever type they may be, original, or consequential;
 - (c) commute the adjudged penalties, or substitute them by a lighter penalty;
 - (d) stay the execution of all or part of the penalties;
- (4) Judgements passed by the Major Field court shall, after confirmation, be final .

The Minor Field Court and its powers

- 58.(1) The Minor Field Court shall consist of one officer of an appropriate rank.
- (2)(a) The Minor Field Court shall have jurisdiction to consider the offences and contraventions, which occur in the field, or connected therewith;
- (b) the Minor Field Court may pass any of the penalties, provided for in this Act, other than :-
- (i) death;
 - (ii) retribution;
 - (iii) Hud penalties, other than whipping;
 - (iv) imprisonment not exceeding three years.
- (3) Judgements passed by the Minor Field Court shall be confirmed by the Commander in Chief, or whoever he may authorize .

Jurisdiction as to value

59. Notwithstanding the provisions of this Act, the Director of Military Judicature Administration may specify the jurisdiction, as to value, of courts martial in accordance with the provisions of the regulations.

Branch II

Military Prosecution Bureau and its Powers

Establishment of the Military Prosecution Bureau

- 60.(1) There shall be established by a Warrant of Establishment, to be made by the Director of the Military Judicature a Military Prosecution Bureau, subordinate to the Military Judicature, and composed of :-
- (a) the Military Prosecutor General;
 - (b) Military Prosecution Bureaux .
- (2) The Military Prosecutor General shall supervise the business of the Military Prosecution Bureau.
- (3) Legal Officers shall assume the tasks of the Military Prosecution Bureau.

Powers of the Military Prosecution Bureau

61. The Military Prosecution Bureau shall assume the power of inquiry of military criminal suits, submitted thereto, and shall, for this sake, exercise the following powers, to :-
- (a) supervise the progress of the military criminal suit, in all charges, offences and contraventions, provided for in this Act;
 - (b) address charges and conduct the progress of prosecution, before courts martial.

- (c) conduct the progress of the military criminal suit, before all courts martial;
- (d) frame charges, and recommend committal to military trial;
- (e) issue summonses;
- (f) issue warrants of personal and general search, and arrest warrants;
- (g) remove the military detention, issued thereby by decision, or substitute the same, by bond, before committal to trial, or recommend the same;
- (h) represent the Armed Forces and their personnel, before the civil and criminal courts , in accordance with the law;
- (i) inspect military prisons and places of military detention, and follow-up the procedure of persons awaiting trial, and ensure the soundness of abiding by the legal term of detention, in accordance with the provisions of this Act.

Branch III

Police of the Courts and Military Prosecution Bureau

Business of the Police of Courts and Military Prosecution Bureau

62. A force, from the military police, shall be allotted to the courts and Military Prosecution Bureaux, in accordance with the regulations and the systems, and shall have competence on the following matters, to:-
- (a) prepare for the sittings;
 - (b) control security and order in courts martial;
 - (c) execute the sentences, assigned thereto by the courts martial;
 - (d) execute orders and decisions, passed by courts martial, or Military Prosecution Bureaux;

- (e) follow-up the business of military prisons and custodies;
- (f) follow-up the business of the military technical criminal research;
- (g) arrest and search, in accordance with the orders of the Military Prosecution Bureau, or court martial;
- (h) any other tasks, as may be assigned thereto, in accordance with the provisions of this Act, regulations and orders made thereunder .

Inspection of prisons and custodies

63. The Military Prosecution Bureau, courts martial may enter the military prisons and custodies, and inspect the same, to know the condition of inmates, and safety of their remaining therein.

Committal of the accused to trial upon the charges sheet

- 64.(1) No accused shall be committed to trial, without conducting inquiry, or investigation.
- (2) Without prejudice to the provisions of sub-section (1), an accused may be committed to trial, upon a charge sheet, where the circumstances of operations, military necessity, requirements of order and discipline and clarity and simplicity of the evidence thereof require the same; provided that the accused shall be availed the chance to present his/her defense .

Chapter II

Military Criminal Suit and Inquiry thereof

Branch I

Military Suit

Institution and Lapse of the Military Suit, Boards

of Investigation and Inquiry Procedure

Institution of the military suit

65. The military criminal suit shall be instituted in the following cases :-
- (a) upon whatever may be submitted thereto by the competent authority and contravention investigation board, and issue of an order of committal , by the competent authority, upon recommendation of the Military Prosecution Bureau;
 - (b) upon cognizance of the Prosecution Bureau, or the Military Prosecution Bureau police;
 - (c) without prejudice to the provisions of paragraphs (a) and (b) , where the circumstances of the operations, military necessity, requirements of order and discipline, or nature of the contravention and clarity and simplicity of its evidence require committing the accused to trial, without conducting investigation, or inquiry, the competent authority may, after statement of such circumstances, commit the accused to trial, upon a charges sheet; provided that the accused shall be availed the chance to prepare his defense, and be availed thereto the practically possible facilities .

Lapse of the suit by limitation

66. Without prejudice to the provisions of the Criminal Act, 1991, and with the exception of the offences, set out in Chapter II , of Part III, the right of conducting the suit shall lapse by limitation, after the expiry of ten years, of the date of occurrence of the offence, or five years, of the date of knowledge thereof, or conducting any procedure with respect thereof.

Termination of the military suit

- 67.(1) Without prejudice to the provisions of the Criminal Act, 1991, and with the exception of the offences, set out in Chapter II, of Part III , the military criminal suit shall terminate for any of following reasons:-

- (a) death of the accused;
- (b) passing a final judgement thereon of acquittal, or conviction;
- (c) issue of agrounded decision, by the Military Prosecution Bureau, rejecting addressing the charge, or dismissing the military criminal suit;
- (d) issue of a grounded decision, by the Minister, upon recommendation of the Director of the Military Judicature, staying the military criminal suit;
- (e) passing a decision, by the court, dismissing the military criminal suit;
- (f) issue of a decision, by the President of the Republic, of general amnesty, of the military criminal suit.

- (2) Where the military suit terminates, for any of the reasons, mentioned in sub-section (1), no other military suit, based upon the same facts, shall be instituted, save in the cases of dismissal of the military suit, or non-preference of charge.

Branch II

Inquiry and Investigation

Assumption of inquiry, or investigation

- 68.(1) The Military Prosecution Bureau shall assume inquiry of military criminal suits, submitted thereto; and investigation shall be made by an order issued by the competent authority.
- (2) Investigation of military contraventions shall be assumed by such one of the personnel, or the personnel, as may be specified in the investigation order.

**Stepping aside from assumption
of inquiry , or investigation**

69. The Military Prosecution Bureau shall not assume inquiry, or investigation of any military criminal suit, to which it is a party, or has a private interest .

Contents of the record of inquiry, or investigation board

- 70.(1) The record of inquiry, shall be in writing .
- (2) The record of inquiry, or investigation board shall contain the following :-
- (a) statements of witnesses;
 - (b) statements of the accused;
 - (c) any reports, or documents having connection with the military criminal suit, subject of inquiry, or investigation;
 - (d) any procedure, as may be taken in inquiry, or investigation;
 - (e) conclusion of the inquiry, and the decision of submission to the court;
 - (f) charges sheet, where having justification.

- (2) The regulations shall specify the forms , prescribed for records of inquiry and investigation boards .

Influence of inquiry, or investigation prohibited

71. No inquiry, or investigation authority, or any other person shall influence any party to inquiry, or investigation , by enticement, coercion or injury, to force him/her to deliver any statements, or information, or refrain from the same.

Investigation board and power of its constitution

72. The commander of any force may order the constitution of a preliminary investigation board, for collecting evidence on any matter, as the constitution order may specify .

Powers of military investigation and inquiry board

- 73.(1) The investigation board, shall have the following powers, to :-
- (a) take statements of the witnesses and examine them;
 - (b) issue summonses and warrants of arrest and search of personnel and military places, require production of documents and take all the necessary measures for collecting evidence, as the regulations may specify.
- (2) The regulations shall specify the procedure of investigation boards, records of inquiry and the provisions, relating thereto .

Inadmissibility of investigation procedure as evidence

74. Subject to the provisions of the Evidence Act, 1994, there shall not be admissible, as evidence, before the courts, the procedure of the investigation board, and no non-judicial confession, set out therein shall be admitted, and no evidence, relating to the board procedure,

against any person, shall be heard, save in case of his/her trial for intentionally delivering false statements, before the board.

Incompetence to work in the court

75. No one, who inquires in a suit, or conducts investigation thereon, or is a party thereto, or has interest therein, shall consider the same, at the trial stage.

Power to order inquiry

76. The Military Prosecution Bureau shall conduct inquiry of any contravention, or offence, upon the directions of the military authority, within jurisdiction of which the contravention has occurred, or upon the directions of any higher authority.

Inquiry procedure

77. Inquiry shall include the following procedure :-
- (a) examining any person, or perusal of any documents , or conducting any examination, or following any other legal means, as may be deemed to benefit in verification of facts;
 - (b) examining the witnesses, in the presence of the accused, where he desires the same;
 - (c) recording the business of inquiry procedure in the record of inquiry, and the witnesses shall sign their statements, after reading the same thereto;
 - (d) submission of the military inquiry procedure, to the authority ordering the inquiry;
 - (e) examining the accused, reading his statements to him, and his signature of the same.

Receiving admissions during investigation, or inquiry

78. Where any accused , during inquiry, or investigation, and before trial, admits commission of the offence, subject of inquiry, or investigation, the body assuming inquiry, or investigation shall take him/her , to a Legal Officer, to receive his admission, and record the same, in the record of inquiry , or investigation; and shall be deemed judicial confession .

Chapter II

Stay of the Military Suit, and Tender of Pardon

Stay of military suit

- 79.(1) Subject to the provisions of the Criminal Procedure Act, 1991 , and with the exception of the offences, set out in Chapter II , of Part III, the Commander in Chief, upon recommendation of the Director of Military Judicature, at any time before completion of inquiry and before passing judgement in the military criminal suit, may take a grounded decision under his/her hand, to stay the criminal suit, against any accused; and his/her decision shall be final, and shall not be contested; and the court then shall stay the proceedings, and pass the orders, necessary for termination of the military criminal suit .
- (2) The Commander in Chief, or whoever he/she may authorize, may request perusal of the record of trial, to consider exercising his/her power of staying the military suit; and the court shall then stay the progress of trial, pending the issue of the Commander in Chief .

Tender of pardon

- 80.(1) Subject to the provisions of the Criminal Procedure Act, 1991 , the Military Prosecutor General, for the sake of obtaining testimony of a person accused with others of an offence, and he/she has not the

- greatest role therein, may take a grounded decision, before trial, tendering pardon thereto; on condition that he/she reveals all what he/she knows of facts and circumstances, relating to such offence, and any person, who has a relation thereto .
- (2) The said accused shall be examined, as a witness in the trial, and shall be examined therein also, and addressed and tried, as an accused, where a decision of conviction and thereof inflicting a penalty thereon is passed, the court shall verify his/her satisfaction of all the conditions, upon which the tender is based. Where it is proved that he/she has satisfied , it shall pass an order staying execution of the sentence. As where it is proved that he/she did not satisfy, by intentionally concealing one of the essential matters, or adducing perjury, it shall pass an order executing the adjudged sentence.

Chapter IV

Summons, Detection, Bail, Seizure and Search

Summons

- 81.(1) The court martial and the commission, assuming inquiry, or investigation may summon any person, to deliver his/her statements, or produce any document, or other thing, whenever the same is necessary for purposes of the trial, investigation, inquiry or executing any order, passed by the court, or body of investigation, or inquiry.
- (2) Summons shall be made by the competent military command, according to the rank of the personnel, intended to be summoned.
- (3) Summons may directly be made to the person, intended to be summoned, together with notifying his/her military command.
- (4) Notwithstanding what is set out in sub-section (3) above, the competent command shall be responsible for executing the summons of the person intended to be summoned .

Search

- 82.(1) The Military Prosecutor, or the persons authorized to conduct investigation and detention, at any time may of his/her own accord, or upon request of the competent body in a suit, issue an order to conduct search of persons, offices, military barracks or other places, occupied by persons subject to this Act, whenever he/she may deem the same as helping the purposes of inquiry, or trial.
- (2) The warrant of search of places shall be written and specify the purpose of search, and persons and places, intended to be searched, and be signed and sealed by the authority, which issued the search warrant; and the person intended to be searched , to search his place of work, or residence shall peruse the same in writing.

Arrest and search of women

83. Where the person, intended to be arrested, or searched is a woman, the person conducting the arrest, or search shall depute a woman to conduct the same.

Safeguards of search

84. Search shall be conducted, in accordance with the following safeguards :-
- (a) it shall be conducted, in the presence of two witnesses, to be summoned on part of the person executing the search procedure;
 - (b) the occupier of the place, intended to be searched , or whoever may deputize therefor shall be allowed to attend the search procedure;

- (c) there shall be impounded and secured the papers, weapons, machinery and every thing, as may have been used in committing the offence, or is the result of committing the same or such , as the offence may have occurred thereon, and every thing, as may benefit in the detection thereof;
- (d) where the accused expresses any remarks, about the seized things, the same shall be written in a record, to be signed by the accused, or he/she shall show therein the requirements of his/her refraining to sign;
- (e) locks, or seals shall be placed on the places, wherein there are any traces, or things , as may benefit in detection of the offence. They shall be guarded, whenever the same is necessary ;
- (f) the things and papers, which are seized, during search, shall be placed in a closed receptacle;
- (g) the person executing the search warrant shall forthwith prepare a list of the seized things and places, wherein he/she found them; and the witnesses shall sign the same; and a copy thereof shall be delivered to occupiers of the place, or whoever may deputize therefor ;
- (h) the seized things, and the lists thereof shall forthwith be submitted, to the person, who ordered the search, who shall take action, with respect thereof;
- (i) where search reveals a person, who is unlawfully detained, the person, who conducts search shall bring him/her forthwith, before the person, who ordered the search, to determine such, as he/she may deem fit.

Entry to search

85. Whoever executes search may enter any place, as he/she may deem that the person, required to be arrested, may be inside the same; and he/she may, upon entry, use the appropriate force, where he/she refuses to allow the same to enter .

Arrest warrant

- 86.(1) The Military Prosecutor, or the persons, who are authorized to conduct investigation and detection, may order the arrest of any personnel, or deliver any arrested personnel.
- (2) Forthwith arrest of a personnel, he/she shall be subjected to personal search, and whatever may be in his/her possession of effects shall be seized and kept in a secure place, and a list thereof shall be written and delivered thereto.

Notification of arrest, or search

87. In all the cases, wherein arrest warrant , or summons is issued, or a warrant for search of persons, or places is issued, the commander of the unit, to which the personnel, or place concerned belongs shall be notified.

Arrest warrant of personnel executed

- 88.(1) Saving cases of redhandedness, no arrest of any personnel shall be made, without a warrant, issued by a competent authority.
- (2) The commander shall be notified of any arrest warrant, or summons, issued against a personnel, under his/her command, before executing the same.

- (3) Where the arrest warrant is issued by a non-military body, such body shall re-deliver him/her to his/her unit, or the nearest one of units, forthwith completion of inquiry; and in all cases, confinement shall be, for the purposes of inquiry, or trial, before the non-military bodies, inside the unit of the accused.

Siezure of property of the accused

89. The Military Prosecutor General, upon request of the person, assigned with the investigation procedure , or the court may sieze the property of any accused, as the case may be , where he/she deems that the same is necessary for investigation, trial or execution of the sentence.

Disposal of seized property

90. The Military Prosecutor General, or court martial, as the case may be, may order such, as he/she may deem fit, for preserving the seized property, or the value thereof.

Chapter V

Military Detention

Reasons, degrees and types of detention

- 91.(1) Military detention may be effected, on any personnel, who is charged with committing one of the offences, provided for in this Act, or any act incriminated in any other law.
- (2) The order of military detention shall be issued for any of the following reasons :-
- (a) fear of absconding of the accused;
 - (b) fear of the accused influencing the progress of investigation;

- (c) preserving the safety and security of the accused;
 - (d) preserving the safety and security of others;
 - (e) his being charged with committing any of the offences, against life, or property, or offences, ~~##afainst##~~ the State.
- (3) Military detention shall be deemed legal confinement, for the purposes of inquiry, or trial, before courts, and all criminal prosecution bureaux.
- (4) The regulations shall specify the degrees and types of detention, and the manner of its execution, and the other provisions thereof.

Termination of detention

- 92.(1) Military detention shall terminate for any of the following reasons :-
- (a) issue of an order therefor, by the commander, the Military Prosecution Bureau or the court;
 - (b) completion of investigation;
 - (c) lapse of fifteen days , of the date of detention of an officer;
 - (d) lapse of thirty days, of the date of detention of other ranks .
- (2) The period of detention of those accused of offences against the State, disobedience and offences, at operations areas, murder or grievous hurt shall be up to termination of the trial, release on bail, by the Military Prosecution Bureau, or the court .

Renewal of detention

- 93.(1) The competent commander of the main force, or the Military Prosecutor General, in case of non-termination of investigation, for reasons, relating to its nature, or nature of the circumstances, in which it is made, or for any compelling substantive circumstances, may approve extension of the period of detention, to other periods; provided that the same shall, not exceed sixty days.

- (2) The Chief of Joint Staff, upon recommendation of the Director of the Military Judicature, may extend the period of detention; provided that the total period of detention shall not exceed three months .

Termination or mitigation of detention

- 94.(1) Taking into consideration the nature and quantum of the injury, resulting from the offence, and after termination , or in the course of investigation, the Military Prosecutor may order the release of the accused, or mitigate the degree of his/her detention, by such financial bail.
- (2) Decisions of the Military Prosecutor shall be appealed , to the Military Prosecutor General.

Chapter VI

Charges

Framing of charges

95. The body assuming investigation, or inquiry, in case of availability of prima facie evidence of the existence of a contravention, may frame a charges sheet, including all the charges; and every charge shall be based on the offence concerned, attributed to the person, against whom evidence is available, on the form prescribed therefor .

Contents of the charges sheet

- 96.(1) The charges sheet shall contain the following :-
- (a) the military number, and number of the military card;
 - (b) rank of the accused;
 - (c) name of the accused;
 - (d) the unit, to which the accused belongs;

- (e) where the accused is not military, reference shall be made to the decision, which subjects him to the Act;
 - (f) all the charges attributed to the accused; provided that each charge shall contain one contravention, and there shall be shown therein the number and marginal notes of the section of contravention, the law in which it is found, together with a brief statement, and details of the contravention and the facts thereof, its date and the effects resulting therefrom.
- (2) The commander of the accused shall sign the charge sheet, together with showing the place and date of signature.

Chapter VII

Trial

Arrangement of trial procedure

- 97.(1) The court shall follow trial procedure by the following arrangement :-
- (a) ascertainment of the presence of an order committing the procedure for trial;
 - (b) the court shall notify the accused of the charge addressed against him/her , or delivery of a copy thereof thereto;
 - (c) in trial the following procedure shall be followed :-
 - (i) ascertainment of the basic evidence about the accused, witnesses and suit; and it may return the papers of the suit, to the Military Prosecutor, to complete any substantial deficiency;
 - (ii) hearing address of the prosecution , statements of the complainant and the president of the board of investigation, if any, and examining the same;
 - (iii) hearing reply of the accused to the charge;
 - (iv) evidence for the prosecution; and examination thereof;

- (v) examination of the accused;
 - (vi) framing the charge , after framing the charges sheet, where the court deems this fit;
 - (vii) addressing the accused by the charge, and his/her reply thereto;
 - (viii) hearing the defense evidence, if any, and examining the same;
 - (ix) any procedure on evidence, as the court may take;
 - (x) admission of the final pleadings, if any, for the proprietor of a private right, then the prosecution, then the defense;
 - (xi) pronouncement of the decision;
 - (xii)hearing the reason of mitigation, or aggravation of penalty;
 - (xiii) pronouncement of judgement.
- (2) Where the accused admits, upon his/her reply to the charge, the court may frame the charge, without hearing evidence of the prosecution, and pass its decision in the suit;

Power of the court to arrange the procedure

98. The court may advance, or defer any of the procedure, during trial, at any stage, where it considers that the same is necessary for achievement of justice.

Seeking the help of an interpreter

- 99.(1)Where it is proved to the court that the accused is unable to understand the language, in which the proceedings are operated , for any of the reasons, it shall seek the help of whoever may interpret thereto, or help him/her in understanding , or address him/her in the way he/she understands.

- (2) Every interpreter, or helper shall take the oath that he/she shall bind himself/herself by truth in interpreting.

Plea of the accused

- 100.(1) The court shall address the accused with the charge, by reading it to him/her , explaining the same thereto and asking him/her whether he/she is guilty, or innocent.
- (2) Where the plea of the accused is that he/she is guilty, the court shall record his/her admission of the same.
- (3) Where the accused pleads guilty in the offences the penalty of which may reach death, or imprisonment, which exceeds fifteen years, the court shall :-
- (a) hear any other evidence, adduced by the prosecution;
 - (b) warn the accused of the seriousness of his/her admission, where admission is the only evidence against him/her;
 - (c) adjourn the conviction decision to a period, not exceeding one month.
- (4) The court, upon conclusion of trial, under the provisions of paragraph (3)(c), shall re-address the accused with the charge, and hear his/her plea once more. Where his/her plea is that he/she is guilty, it shall pass a decision of conviction .
- (5) Where the plea of the accused is that he/she is not guilty, or is silent about pleading, the court shall require him/her to present his/her defense, and such evidence, as he/she may have , to rebut the charge. The accused, or the representative of defense thereupon shall present a list of the witnesses, and all the evidence he/she wants to adduce.

Control and management of the sitting

- 101.(1) Control and management of the court sitting are entrusted to the President of the court ; and he/she may take any legal action, against whoever may breach the order thereof.
- (2) Where the court rules, upon the provisions of sub-section (1), convicting the offender, and to punish him, it may, whenever he/she presents an excuse acceptable thereto, pass an order pardoning him/her , and quash the conviction, or sentence, or both .

Dismissal of the suit during trial

- 102.(1) Where it transpires to the court, after hearing the evidence of the prosecution , and examining the accused, that the evidence does not lead to his/her conviction, it shall pass an order dismissing the criminal suit, and releasing the accused.
- (2) Where there relates, to the criminal suit, a financial right to others, the court, before releasing the accused, shall exercise its civil powers, with respect of such civil right.
- (3) Where the criminal suit has been instituted upon complaint, and is compoundable, and the complainant is absent, on any day fixed for hearing the same, inspite of his knowledge thereof , the court may, in its discretion, dismiss the criminal suit, and release the accused .

Amendment of the charges sheet

- 103.(1) The court, whenever it may deem fit, during trial, may amend the charges sheet, by addition , or omission, or reframe it anew .
- (2) The court shall read the amended, or new charges sheet to the accused, and record his reply thereto .
- (3) The court, upon amending the charge sheet, or reframing the same, may order a new trial, or adjourn the trial, for such period, as it may deem fit, or continue the trial, where no injury to the case of the prosecution, or defense may be caused thereby .

- (4) Where the court amends, or reframes the charge sheet, it may allow the representative of the prosecution and the accused, to rehear any witness, who has previously been examined, where it considers the same necessary for achievement of justice .

Conviction of an offence other than the one charged with

- 104.(1)Where a person is committed for trial, in accordance with the provisions of this Act , then there transpires, during trial, from evidence, that he/she has committed a different offence, he/she may be convicted of such offence, as may have transpired that he/she has committed, where he/she is not previously charged therewith; on condition that such alternative offence shall be lighter than his/her first charge.
- (2) Where a person is charged with commission of any offence, he/she may be convicted of attempting to commit such offence, although he/she is not charged with attempt separately.

Adjournment of trial

105. The court may order adjournment of the trial, for any substantial reason ; provided that such reasons shall be entered in the record ; and it may order renewal of confinement of the accused, where necessity requires the same.

Succession of the president or members of the court

106. Where any necessity requires absence of the president, or one of members of the court, the competent authority may substitute them with others; provided that the same shall not affect any procedure, as may have previously been taken, unless the court deems otherwise, for substantial reasons, which it shall enter in the record .

Committal of the suit to a higher court

107. Where it transpires, to the court , after framing the charge sheet, in a criminal suit that it is mandatory, to hear the same , before a higher court, by reason of non-competence, or the penalty exceeds its powers, or the assessed compensation exceeds the civil powers thereof, the court shall commit the criminal suit to a higher competent court .

Loss of the trial record

- 108.(1)Where the trial procedure record, or part thereof is lost, a copy thereof may suffice, after being approved by president of the court .
- (2) Where a copy of the procedure record is not found, and it is possible to obtain sufficient evidence, on the charge, the decision, judgement and the court business, such evidence may suffice, after consent of the accused. Where the accused does not consent, he shall be tried anew .

Proof or rebuttal of the charge

109. There shall be followed, for proof , or rebuttal of the charge, or any fact, relating thereto, or affecting the same, the provisions of the Evidence Act, 1993 , and any other law , as may replace the same.

Procedure of taking evidence

110. Courts martial, where no provision is set out in this Act, shall follow the procedure of taking evidence, provided for in the Criminal Procedure Act , 1991, or any other law , as may replace the same.

Passing and date of judgement

111. Passing judgement shall be as soon as possible , after the end of hearing and pleadings; and pronouncement thereof shall be in an open sitting, and in presence of the accused, saving trial in absentia.

Contents of judgement

- 112.(1)The judgement shall include the charge, and the decision determining the same, its grounds and the final orders. The judgement shall be dated and signed by the signature of the magistrate, upon pronouncement thereof.
- (2)Where the judgement is of conviction, there shall be specified therein the offence, of which the accused is convicted, the section of the Act, under which he/she is tried and the adjudged penalty.
- (3)Where the judgement is of conviction of more than one offence, and for which penalties of imprisonment have been inflicted, the court shall show, in the judgement, the manner of running thereof, concurrently, or consecutively.
- (4) Where the judgement is of acquittal, the court shall state therein the charge, of which the accused has been acquitted, and order his/her release.
- (5) In all cases, the judgement shall include any other orders, as may be necessary, for ending the criminal suit.

Reasons of judgement of substitute sentence in certain offences to be stated

113. Where the accused is convicted of an offence punishable with death, retribution or whipping, and the court passes against the accused any substitute sentence, it shall state, in the judgement, the reasons, for which it passes such sentence.

Accused informed of his/her right to appeal

114. Where judgement of conviction is passed, and the judgement may be subject to appeal, the court shall inform the accused, and those having interest, that they have the right to appeal, and of the period, within which the appeal may be presented .

Retraction from judgement disallowed

115. When judgement is passed after signature, the court shall not, of its own accord, retract therefrom, by revision , or alteration, save correcting a clerical, or arithmetical error.

Accused given copy of judgement

116. Where the accused requests a copy of the judgement, the same shall be given thereto; and where he/she desires its translation, to his language, and the same is possible his/her request shall be responded to .

Original copy of judgement attached to the record

117. The original copy of judgement shall be attached to the record .

Stay of execution of judgements

118. The confirming authority, in consideration of the previous good conduct of the convicted person, or in consideration of his/her being awarded a bravery medal, or order, or where his/her effective service exceeds thirty years, and without affecting private rights, may decide, in the judgement thereof, as to such terms, as it may deem fit, stay of execution of the sentences of imprisonment, or demotion of, or removal from the rank.

Simple sanctions

119 The regulations shall specify the simple sanctions, which are summarily inflicted on personnel, and powers of the commanders, who inflict such sanctions, and the extent, to which they are inflicted.

Retrial

120.(1)The sentenced person, any one having interest or the Military Prosecutor General, may, at any stage, request the Court of Appeal retrial for the any of following reasons :-

- (a) the accused is convicted of the offence of murder, and it is established that the deceased is alive;
- (b) a person is sentenced of committing an offence, and it is established that another is convicted of his/her committing the same offence, and it is not possible to reconcile between the two contradictory judgements;
- (c) one person is convicted based on evidence, which subsequently is proved to be not true;
- (d) where there transpires, after judgement, a fact, or new evidence which by nature proves acquittal, or conviction of the sentenced person.

(2) The Court of Appeal, in all the cases, set out in sub-section (1), may pass the appropriate decision.

Trial in absentia

121.(1) An accused shall be tried in his presence, and shall not be tried in absentia, save in the following cases :-

- (a) where he/she is accused of any of the offences against the State, or offences of desertion;

- (b) where the court decides that proceeding with the proceedings does not cause any injury to the defence case; on condition that there shall appear, on his behalf, an advocate, or agent.
 - (c) Where the court decides relieving him/her from appearance; on condition of writing that he is guilty, or there appears, on his/her behalf, an advocate, or agent.
- (2) In all the cases, provided for in sub-section (1), the accused shall be notified by all the legally prescribed ways of notice .

Chapter VIII

Penalties Inflicted by Courts Martial

Types and arrangement of penalties

122. Subject to the provisions of this Act, the penalties, which may be inflicted on any personnel, convicted before a court martial, of any contravention of the provisions of this Act, shall be as follows :-
- (a) Death;
 - (b) Imprisonment;
 - (c) expulsion from service;
 - (d) fine;
 - (f) whipping;
 - (g) demotion of rank, in respect of officers, to any lower rank; provided that the seniority of the convicted person shall be specified in the batch, to which he/she has been removed;
 - (h) removal;
 - (i) demotion of seniority in the rank;
 - (j) severe, or light reprimand;
 - (k) deprivation of the period of service;
 - (l) deprivation of pension fully, or for any period;
 - (m) deprivation of privileges of pension;

(n) deprivation of all, or part of the medals, insignias, decorations or orders;

- (2) Compensation shall be adjudged, whenever the court deems that injury has affected the victim, by committing the offence, where the same is not expressly provided for in the penalty specified for the offence.
- (3) Where one act constitutes more than one offence, the severer penalty shall be inflicted.
- (4) Where the person is adjudged to retribute an amount, he/she has obtained, as a result of committing the offence of which he/she has been convicted, he/she may be adjudged with fine, whenever the court deems that the offender has benefited by such money.
- (5) Otherwise than hud offences, the penalty of whipping shall not be adjudged against whoever attains sixty of his age, or the person, whom the physician prescribes to be unhealthy; provided that the same shall be substituted by another lighter penalty.
- (6) Upon adjudgement of any financial penalty, there shall be adjudged imprisonment, as a substitute penalty, upon non-payment. Where the sentenced person pays part of the fine, the court, or the Director of the Administration of Military Judicature shall commute the term of substitute imprisonment with the proportion of what he pays to the total penalty

Safeguards of choice of penalty

- 123.(1) The court, upon choice and assessment of the penalty, shall give due regard to all the mitigating, or aggravating circumstances of the degree of responsibility, the motive for the offence, and the style of its execution, and seriousness of the offence on discipline, and reputation of the Armed Forces, and gravity of injury, and the previous convictions of the convicted person.

- (2) In addition to the penalty of imprisonment, the court may inflict any penalty lighter than the same.
- (3) Upon inflicting the penalties of removal, or demotion of rank, the court shall specify the seniority of the convicted person.
- (4) Upon inflicting the penalty of whipping, there shall be specified the number, in such way, as may not exceed one hundred, and not less than fifteen lashes.
- (5) The Armed Forces is the guardian of whoever has no guardian of the personnel, or whose guardian is of unknown place, absent, or his return is unexpected .
- (6) The court, or Director of the Military Judicature Administration, upon the judgement becomes final, shall pass such as it may deem fit, with respect to satisfaction of the financial penalty .

Consequential penalties

- 124.(1) Where an officer is sentenced to imprisonment, before a court martial, or non-military court, his/her service shall terminate , as of the date specified in the decision of termination of service in the Armed Forces.
- (2) Where a non-commissioned officer, or soldier is sentenced to imprisonment, before a court martial, or non-military court, for a term more than six months, his/her service shall terminate.
 - (3) There shall be followed the procedure, provided for sub-sections, (1) and (2) above, by decision of the Director of the Military Judicature, Administration accompanied by a copy of the judgement confirming the same .

Chapter IX

Appeal, Confirmation, Review and Execution

Confirmation of sentences

- 125.(1) Sentences, which need confirmation, shall be submitted to the confirming authority, after lapse of the period of appeal, or passing a final decision, with respect thereto.
- (2) There shall be confirmed, by the Commander in Chief, the sentences passed against an officer, which affect his/her legal position, as to demotion of rank and seniority.
- (3) Subject to the provisions of the Criminal Procedure Act, 1991, life sentences passed against any personnel, and sentences, passed against officers, with expulsion, shall not be executed, save after approval of the President of the Republic.
- (4) There shall be stayed execution of the sentences, which need confirmation, after pronouncement of sentence, pending confirmation.

Appeal

- 126.(1) Judgements of summary courts martial shall be appealed, before the General Court Martial.
- (2) Judgements of General and Central Courts Martial shall be appealed, before the Military Court of Appeal.

Powers of the Court of Appeal

- 127.(1) The competent court of appeal shall have the following powers, to:-
- (a) confirm the judgement passed by the competent court martial;
- (b) confirm the decision of conviction and commute the penalty, or substitute the same by any lighter penalty.

- (c) alter the decision of conviction of an offence to decision of conviction of another offence, of the commission of which the accused may have been convicted, upon the evidence; on condition that the other offence shall not be punishable with a severer penalty, and alter the penalty consequently;
 - (d) return the trial proceedings to the first instance court, to act in accordance with the directions; provided that the first instance court shall not admit any additional evidence, without the permission of the competent court of appeal;
 - (e) quash the decision, or sentence;
 - (f) order retrial;
 - (g) quash, or amend any subsidiary order.
- (2) Judgements and decisions of the Military Court of Appeal shall be final .

Right to appeal

- 128.(1) Saving a person tried in the field, or summarily before his commander, under the regulations, every person subject to the provisions of this Act, sentenced of an offence, before a court martial, or any person having interest shall have the right to appeal the sentence .
- (2) Civilians, who are tried before courts martial shall be entitled to appeal the sentences thereof.
- (3)The Military Prosecutor General shall be entitled to appeal the sentences passed by courts martial, on behalf of the Armed Forces.

Period of appeal

- 129.(1) The appeal shall be presented in writing, within fifteen days , of the date of pronouncement of the sentence, or judicial measure, subject of appeal.

(2) The competent court of appeal , for just reasons, may extend the period of appeal.

Effect of appeal

130. Appeal shall not entail stay of the legal execution of the sentence, save in cases of death sentences, or hud sentences, or upon admission , by the court, of staying the execution .

Reasons upon which appeal is based

131. Sentence may be appealed for any of the following reasons :-

- (a) the sentence being based upon contravention of the law, or fault in application, or construction thereof;
- (b) a substantial defect in the proceedings having occurred, upon which injustice against the accused is entailed;
- (c) fault in evaluation of evidence having transpired;
- (d) the sentence and incriminated act being unproportional;
- (e) any other just reason.

Power to review

132.(1)The Military Court of Appeal, of its own motion, or upon petition, may require the record of any suit, in which a judicial measure, or sentence is passed, before any court martial, for verifying soundness of proceedings, and achievement of justice, and may order such as it may deem fit.

(2) The period of review, or revision shall be sixty days, running as of the day subsequent to pronouncement of the sentence, or informing the applicant for revision thereof, where he/she is not present at the sentence sitting .

Execution of sentences

- 133.(1) Sentences of courts martial shall be executed, as soon as possible, in the manner specified by the regulations; and the parties shall not be aggrieved by waiting, or prolonging the date of execution .
- (2) A sentence shall forthwith be executed , other than death sentence, retribution, hud and imprisonment inflicted on an officer.
- (3) Sentences which change the legal position of an officer shall be executed after being confirmed by the President of the Republic, or the Commander in Chief, as the case may be .
- (4) Sentences of courts martial shall be executed forthwith their pronouncement, as to such manner, as the regulations may specify.

Execution of death sentence

134. Subject to the provisions of the Criminal Procedure Act, 1991 , death sentence shall not be executed, save after approval of the President of the Republic .

Confinement of the sentenced person pending execution

- 135.(1) Where a person is sentenced with death, or amputation, the court shall pass an order confining him/her pending confirmation of the sentence, on the part of the competent court. Where the sentence is confirmed, or amended , the competent court shall pass the order necessary for execution, after approval of the President of the Republic .
- (2) Where a person is sentenced with retribution, for wounds, or whipping, the court may order his/her confinement, or release him/her on bail, as the case may be .

Manner of executing sentences

- 136.(1) Alienation sentence shall be executed, in such place, as the court may order therewith, with the safeguards of supervision, provided for in this Act.**
- (2) Whipping shall be executed, in accordance with the following conditions :-**
- (a) a man shall generally be whipped standing, without tying, or stretching, and a woman shall be whipped sitting, and execution shall be carried out, at such time and place, as the court may specify;**
 - (b) whipping shall be lump sum, moderate, medium, not slicing and not breaking, distributed, otherwise than on the face and head and fatal places, with a medium whip, and any similar instrument may be used;**
 - (c) where it transpires, to the court, during executing the whipping sentence, that the health condition of the offender no longer withstands the rest of the sentence, it may order stay of whipping.**

Order for collecting fine, or compensation

- 137.(1) Fine, or compensation shall be executed, as to such manner, as the court, which passed the sentence may order; and it shall in case of non-payment, pass an order for collecting the amount, by any of the following ways :-**
- (a) attachment of any debt due to the offender and satisfy the same;**
 - (b) attachment of post-service benefits;**
 - (c) attachment, or seizure of any property owned by the offender and sell the same .**

- (2) Where it is not possible to collect the amount of fine, by the preceding ways, the court may order execution of a substitute sentence of imprisonment, or release the sentenced person, at any time, by bond, or bail .
- (3) Where it is not possible to collect compensation, by the preceding ways, the court may follow the civil procedure in the same .

Stay of executing retribution sentence

138. Upon retribution sentence, the following procedure shall be followed:-

- (a) guardians of the deceased, or victim shall be informed of the time fixed for executing the retribution sentence. Where guardans of the deceased request, at any time before carrying out execution staying of the same, the competent authority shall stay the execution, and submit the matter, to the court, which passed the sentence;
- (b) the request for stay of execution shall be presented orally, or in writing, to the competent court, or the officer in charge of the prison; and in such case the officer shall submit the request, to the competent court.

Redress of injury

139. The Court shall adjudge redress of injury, with such, as it may deem fit, where the act of the offender does not constitute an offence, however it causes injury to the victim or a third party .

Mistakes and formal defects not to have effect

140. Mistake in admitting , or rejecting evidence, or the presence of a formal defect, in the proceedings, shall not be a cause to annul any judicial measure, or affect validity of the sentence where the same, in its essence, is sound and does not entail injury to any of the parties.

Chapter X

Lapse of conviction and sentence by limitation

- 143.(1) Subject to the provisions of the Criminal Procedure Act, 1991, and the offences set out in Chapter II, of Part III, there shall automatically lapse by limitation the conviction, by the expiry of :-**
- (a) six years , of the date of inflicting the sentence of imprisonment, exceeding two years;**
 - (b) four years, of the date of inflicting the sentence of imprisonment, not exceeding two years, or fine or any lighter sentence;**
 - (c) three years , of the date of inflicting any of the sentences of reduction of seniority of the rank, removal, severe reprimand or confinement, not exceeding three months.**
- (2) Subject to the provisions of the Criminal Procedure Act, 1991 , and the offences provided for in Part III, Chapter II, the Commander in Chief, upon request of those concerned, or the injured person, and recommendation of the Chief of Joint Staff, may remit any sentence, amend or substitute the same by a lighter sentence.**
- (3) Without affecting the rights of any person aggrieved by the compounded offence to obtain the appropriate compensation, the Commander in Chief may remit the conviction and the Ta'zir offence totally, or partially, upon the recommendation of the Director of the Military Judicature .**
- (4) Notwithstanding the provisions of sub-section (1) no sentences shall be commuted , or amended in the compoundable offences, save upon consent of the injured person, or his/her guardians, or after satisfaction of such right.**

Petition

- 144.(1) Any person, subject to the provisions of this Act, against whom a sentence is passed by a court martial, may present a petition to commute, or remit the sentence.
- (2) The petition shall be presented, to the Commander in Chief, or whoever he/she may authorize, by the commander of the sentenced person, or the Director of the prison, in which he/she serves the sentence.
- (3) The body, to whom the petition is presented, shall have the right to remit, or commute the sentence, in accordance with the conditions, provided for in section 141(2), (3) and (4).

Part III

Offences and Contraventions

Chapter I

Offences Before the Enemy

Flight

- 143.(1) Every person, subject to the provisions of this Act, who departs, abandons or turns way in flight, from his/her station in the field, or operations areas, without permission, instructions, or otherwise than for clear and assured military necessities, and without exerting effort to defend himself/herself, and his/her force, or position or during operations conducted by the Armed Forces, shall be deemed to be in flight before the enemy :-
- (2) Whoever commits the offence of flight before the enemy, shall be punished, with death, or with imprisonment, for a term, not exceeding twenty years;
- (3) Where the flight causes occurrence of financial loss, to the Armed Forces, or any person, the court shall adjudge compensation, in addition to any other penalty .

Disobedience of instructions

- 144.(1) Whoever expressly, or tacitly refuses, refrains, or defers the execution of instructions, issued to him/her by his/her superior commander, in the operations areas, without legal justification, or executes the same with gross negligence shall be punished, with imprisonment, for a term, not exceeding ten years.**
- (2) Any commander of a field military formation, who expressly, or tacitly refuses, or refrains or defers, without justification, execution of the instructions, issued to him/her by his/her superior commander, in the operations area, shall be punished , with death, or imprisonment, for a term, not exceeding ten years.**
- (3) There shall be punished, with death, or imprisonment, for a term, not exceeding twenty years, whoever commits the acts, provided for in sub-sections (1) and (2) , intending thereby affecting progress of the operations, or success of the force or endangers the same.**

Abandoning military posts

- 145.(1) Whoever , without instructions therefor from the competent body, and without exhausting all the defense means available thereto, or in a way unjustified militarily, evacuates, or departs from his post, during military operations, or issues instructions therefor, or causes the evacuation by any force of their post, and the same leads to control by the enemy of such post, or achievement of a military advantage thereby, shall be punished with death, or imprisonment, for a term, not exceeding twenty years.**
- (2) Where withdrawal causes financial loss to the Armed Forces, or any person, the court may punish his/her with fine, in addition to the penalty, provided for in sub-section (1), above.**

Discouragement

146.(1) Whoever repeats, or spreads false statements, by any of the means, or untrue information, or injurious to the Armed Forces, in the operations areas, with intent thereby to upset such forces, weaken their moral, reduce their combat readiness, or their grumbling, terrorize them, enable the enemy against them, or endanger their success, shall be deemed to have committed the offence of discouragement, and be punished with imprisonment, for a term, not exceeding ten years..

(2)Where the offence of discouragement occurs other than in operations areas, its perpetrator shall be punished with imprisonment, for a term, not exceeding five years.

Forcing subordinates to surrender

147. Whoever forces any person subject to the provisions of this Act, who is under his/her command to surrender to the enemy, abandon thereto , or surrender any post, or military property, or used in combat, or is interested with the defense thereof, shall be deemed to have committed the offence of forcing subordinates to surrender, and be punished with death, or imprisonment, for a term, not exceeding twenty years.

Surrender or unlawful truce

148.(1) Whoever, without instructions from the competent body, for the purpose of surrender, or truce from combat, or suspension of the case of hostility, or accepts the same from the enemy, abets it or issues express, or tacit instructions therefor, or surrenders the personnel under his/her command , or any post to the enemy, by such truce, or causes the same, without legal justification, or military necessity, shall be deemed to have committed the offence of

surrender, or unlawful truce, and be punished with death, or imprisonment, for a term, not exceeding twenty years.

Helping the enemy

149. There shall be deemed to have committed the offence of helping the enemy , and be punished, with imprisonments, for a term, not exceeding twenty years whoever :-

- (a) presents, or attempts to present weapons, ammunitions, funds, military accoutrements or instruments; or**
- (b) facilitates to, harbors or enables it to enter Sudanese territories, or seize any post, facilities, machinery or property; or**
- (c) contacts, discloses thereto or transfers to it, or any body likely to transfer thereto any military information, or plans or other combat aids; or**
- (d) presents any military advantage, to the enemy, to impede any victory, or movement of the force , or endangers the security thereof.**

Joining the enemy

150.(1) Whoever joins the enemy, or voluntarily suffers himself/herself to fall in the hands thereof, shall be deemed to have committed the offence of joining the enemy.

(2)Whoever negligently causes himself/herself to fall in the hands of the enemy, shall be punished, with imprisonment , for a term, not exceeding five years.

Misappropriation of loots

151.(1) There shall be punished, with expulsion from service, and imprisonment, not exceeding ten years, or with any lighter penalty, whoever unlawfully transfers to his/her personal benefit, any property, funds, weapons or documents, not belonging to the Armed Forces, or the bodies subordinate thereto, which are found, or controlled in the course, or by reason of military operations, or causes any of such acts .

(2) Whoever helps to transfer, or delays the report of such property, funds , weapons or documents, without justification, or does not deliver the same, to the competent bodies forthwith, or does not take the necessary measures therefor, shall be punished, with imprisonment, for a term, not exceeding five years, or with any lighter penalty .

Neglect

152. Every person, who causes the commission of any of the acts provided for in Chapter I , of Part II, shall be deemed to have committed the offence of neglect, and be punished, with imprisonment, for a term, not exceeding five years.

Chapter II

Offences Committed by Combatant Personnel

during Operations

Offences against civilians during military operations

153.(1) There shall be punished, with imprisonment, for a term, not exceeding twenty years, whoever :-

(a) commits , attempts or instigates the commission of an offence, or offences of murder of an individual, or individuals of a national, ethnic , racial or religious group, in such capacity thereof, with intent to partially, or totally exterminate, or destroy the same, within the context of a clear methodical conduct, directed against such group, or in the same context does any of the following acts :-

(i) tortures, causes hurt, mutilation or grievous physical, or mental injury to individuals of such group;

(ii) intentionally subjects such group to conditions of livelihood, with intent to destroy them totally, or partially;

(iii) imposes any measures to prevent such group from propagation;

(iv) forcefully transfers the children of such group, to another group.

(2) Subject to the provisions of the Criminal Act, 1991, there shall be punished, with imprisonment, for a term, not exceeding ten years, whoever commits , within the framework of a methodical direct and widespread attack, directed against civilians, any of the following acts :-

(a) enslaving any person, or persons;

- (b) transfer, or forcefully deporting them, the populace their areas, without a justification, required by security of the population, or persistent military necessity;
- (c) torture, unlawful detention or forceful concealment of any person, or depriving him/her of his/her freedom;

- (d) rape, or practising adultery with any person, or sexual slavery, or coercion to prostitution, forceful gestation, buggery or any type of sexual abnormality, or coercing him/her therefor, or sterilizing him/her , to prevent him/her from propagation;
- (e) commits any act, which constitutes oppression of a group of civilians, for political, racial, ethnic, cultural or religious reasons, or for reasons, relating to sex, or nationality.

Offences against persons enjoying special protection

154. Subject to the provisions of the Criminal act, 1991 , there shall be punished, with imprisonment, for a terms, not exceeding twenty years, or with any lighter penalty, whoever treats any person of those hereinafter mentioned, during the period of war, inhumanly, by killing him/her or causing physical, or ethical injury, or grievous suffering

thereto, or by causing widespread destruction of their property, or by seizing the same, without military necessity, or in contravention of the law, in a clear way, or compels him/her to serve in the ranks of a state hostile to his/her state, or deprives him/her of a just and orderly trial, the persons being :-

- (a) civilians , as long as they enjoy such capacity;
- (b) journalists, who perform professional missions;
- (c) personnel of the medical and religious service of the enemy, unless they transform into combatants;
- (d) personnel of civil defense of the enemy, unless they transform into combatants;
- (e) a prisoner of war, as long as he/she enjoys such capacity;
- (f) international monitors;
- (g) officials, belonging to international agencies and organizations, covered by protection, in accordance with treaties and agreements, ratified by the Sudan.

Attacks against civilians

155. Subject to the provisions of the Criminal Act, 1991, there shall be punished, with imprisonment, for a term, not exceeding twenty years, whoever knowingly and voluntarily violates the laws and customs, which organize armed conflicts, by intentionally, and without military necessity, by any of the following acts :-

- (a) direct attacks, against civilian population, in this capacity of theirs, or civilians, who do not directly participate in war business;

(b) direct attacks, against civilian targets, in this capacity of theirs, with his/her knowledge that such attack will result in consequential casualties, or losses in lives, unless such targets are used for military purposes.

Molestation of humanitarian and international bodies

156. Subject to the provisions of the Criminal Act, 1991, there shall be punished, with imprisonment, for a term, not exceeding ten years, whoever intentionally launches attacks, against officials, employees, facilities, materials, units or vehicles used in the missions of humanitarian assistance, or keeping international peace, as long as they are entitled to protection, provided for civilians and civilian posts, and work in the framework of the missions they are entrusted with performing them, in the framework of the specific humanitarian mission, together with abiding by giving due regard to the security safeguards, systems and arrangements, and preserve the security and safety of the Armed Forces.

**Treachery and misuse of the flag of truce, insignias
or uniforms of the enemy**

157. Subject to the provisions of the Criminal Act, 1991, there shall be punished, with imprisonment, for a term, not exceeding five years, whoever intentionally misuses the flag of truce, the flag of the enemy, its military insignia, or the uniform, or insignia of any international, or regional organization, or the other insignias

enjoying legal protection, and there results from such act thereof, death, or considerable casualty to any of the enemy personnel, by treachery.

Molestation of protected estates

158. Subject to the provisions of the Criminal Act, 1991, there shall be punished, with imprisonment, for a term, not exceeding five years, whoever directs attacks, against the buildings allocated for religious, educational, technical, scientific, charitable or cultural purposes, or hospitals, places of gathering the diseased, cemeteries, antiquities and cultural estates, in such capacity thereof, unless used for military purposes .

Threatening and displacement of the populace

159. Subject to the provisions of the Criminal Act, 1991, there shall be punished, with imprisonment, for a term, not exceeding five years, whoever directs persons, under his authority, not to preserve the life of any of the civilian populace, or robs any town, ro place under control, or issues an order to displace the civilian populace, in such capacity thereof, for reasons connected to armed conflict, unless the same is for preserving the security , or safety thereof.

Compelling subjects of the enemy to fight

160. Subject to the provisions of the Criminal Act, 1991, there shall be punished, with imprisonment, for a term, not exceeding five years, whoever :-
- (a) compels subjects of the enemy, present in the Sudan territory, to fight against their countries, or other countries, even though

they used to work, before flaring of the war,
in the Sudan service;

- (b) subjects any of the enemy prisoners of war to physical mutilation , or experiments harmful to health, and the same leads to death thereof or maims the dead bodies of the enemy, or dispatch the wounded

Use of legally prohibited weapons

161. Subject to the provisions of the Criminal Act, 1991, there shall be punished, with imprisonment, for a term, not exceeding ten years, or expulsion from service, whoever, for purposes other than training, uses poisons, toxic weapons, toxic, or asphyxiant gases, or otherwise of gases, or whatever may be deemed as such of liquids, substances or instruments, and all types of weapons legally prohibited for war purposes .

Harming the environment

162. There shall be punished, with imprisonment, for a term, not exceeding three years, whoever carries out business, and acts, without justification, or binding military, or security necessity, with intent to cause a widespread and long term injury and of grievous effect, upon the natural environment, in such capacity thereof.

Offences against prisoners of war

163. Subject to the provisions of the Criminal Act, 1991, there shall be punished, with imprisonment, for a term, not exceeding fifteen years, whoever is competent, and does not exert the necessary care to treat a prisoner of war such humanitarian treatment, as may preserve and

care for his/her life and dignity, and to treat him/her such treatment, as may be fit for his/her position, before taking him/her as prisoner, or :-

- (a) kills, or causes the killing of a prisoner of war, or causes thereto physical, or ethical harm;
- (b) subjects, or causes subjection thereof to ethical, or material thereat, for the purpose of interrogating him/her;
- (c) compels, or causes compelling the prisoner of war to work against his/her state, for the benefit of the Sudan, or any state hostile to his/her country;
- (d) deprives, or causes deprivation of the prisoner of war of his/her right to try him/her a legally fair trial.

Chapter III

Other Military Offences and Contraventions

Rebellion against the constitutional regime

164.(1) There shall be deemed to have committed the offence of rebellion, against the constitutional regime, and be punished with death, or imprisonment, for a term, not exceeding twenty years, together with the possibility of deprivation of all , or part of the pension, or privileges, whoever does, agrees or plans with others to affect the constitutional , or security regime, or unity of the country, by use of military force, or wages war against it, or does the material, or ethical preparation therefor, or commits any acts, or does any communications, or equipages, as by nature cause the same.

(2) Without affecting the generality of sub-section (1) above, there shall be deemed to have committed the offence of rebellion , against the constitutional regime, whoever :-

- (a) is present, upon commission of any of the acts of rebellion, against the constitutional regime, and knows the same, and does not exert the utmost of his/her effort to suppress, or prevent the occurrence thereof;**
- (b) carries weapons, or joins any armed group , taking a means for armed action, against the constitutional regime;**
- (c) knows, or has reason to believe that there is an existing rebellion , or intention to rebel , or an agreement thereon has occurred, and does not report, or delays in the report, to the competent body, or his/her commander .**

Dealing with another state

165. There shall be deemed to have committed the offence of dealing with another state, and be punished, with death, or with imprisonment, for a term, not exceeding twenty years, whoever , without permission, or other than in the context of his/her official work, does any of the following acts :-

- (a) supports, or helps any state hostile to the Sudan, or communicates therewith, with intent to injure the country, or desirous of obtaining any unlawful benefit; or**

(b) spies on the Armed Forces, or transfers any documents, or leaks any secret information , for the benefit of any state, or other body .

Disclosure of military secrets, or information

166. There shall be deemed to have committed the offence of disclosure of military secrets, or information, whoever , without permission, or otherwise than in the context of his/her official work, discloses any information, relating to military affairs, and be punished, with imprisonment, for a term, not exceeding five years.

Mutiny against military discipline

167. There shall be deemed to have committed the offence of mutiny, and be punished, with death, or with imprisonment, for a term, not exceeding twenty years, whoever :-

(a) does, plans or agrees with more than one person on disobedience, or undermining the legal regime , or effects a great breach of discipline and order, or effects chaos, or rioting inside the Armed Forces, or the unit , in which he/she serves, by use, or threat of use of force;

(b) is present at the time of mutiny, and does not exert the utmost of his/her effort to suppress the same;

(c) knows, or has reason to believe that there is an existing mutiny, or intention to

mutiny, and delays, or does not report the same, to the competent body, or his/her commander.

Refraining to respond to the duty of military service

168. There shall be deemed to have committed the offence of refraining to respond to the duty of military service, whoever is assigned to perform military service, and does not respond to the assignment, within one month, or absents himself/herself thereafter, and be punished, with imprisonment, for a term, not exceeding three years; and where he/she commits the offence in case of war.

Desertion

- 169.(1) There shall be deemed to have committed the offence of desertion, whoever deserts military service, or departs, without legal justification, from his unit, in which he serves, and does not return thereto, or instigates any person therefor, shall be punished, with imprisonment, for a terms not exceeding five years together with the possibility of deprivation of all, or part of the pension, or privileges..
- (2) For the purposes of sub-section (1) above, absence, which exceeds the periods specified by the regulations and systems, shall be deemed desertion .
- (3) There shall lapse by limitation any rights of the deserter, whenever the period of his/her desertion amounts to the period, provided for in the regulations and systems, unless the court otherwise decides.

Harboring deserters

170. There shall be deemed to have committed the offence of harboring deserters, every person, other than the parents, wife or husband, who harbors any deserting person, or knows that he/she is a

deserter, and does not report the same to his/her superior officer, or to any other officer, or does not exert sufficient effort, to prevent him/her from desertion, or arrest him/her after desertion, and be punished, with imprisonment, for a term, not exceeding three years.

Absence without permission

171. There shall be deemed to have committed the offence of absence, without permission, and be punished, with imprisonment, for a term, not exceeding one year, or with any lighter penalty, every person who :-

- (a) is late, or absents himself/herself from his/her place of work, or the time fixed for column, or services, without permission;
- (b) leaves, in the time of peace, the place of his/her service, without permission, or before another replaces him/her , according the specified systems.

Use of criminal force against superior officer

172.(1) Subject to the provisions of the Criminal Act, 1991, there shall be deemed to have committed the offence of use of criminal force, against the superior officer, whoever uses, or attempts to use criminal force, or threatens to use the same, or acts outside discipline and order, in a an acute way, against his/her superior officer, whether during service, or after the same, while he knows, or has reason to believe that he/she is his/her superior officer, and be punished, with imprisonment, for a term, not exceeding five years, or with any lighter penalty, in addition to any prescribed penalty for any wound, or injury, as may result thereform.

(2)There shall be deemed as use of criminal force, the use of any instrument, or part of the body .

(3) Where threat is not accompanied by any criminal force, the person, in this case, shall be punished, with expulsion, or any lighter penalty.

Maltreatment of superiors

173. There shall be deemed to have committed the offence of maltreatment of superiors, whoever addresses an insult, abuse or any other insult, expressly, or impliedly, to his/her superior officer, by any of the means , and be punished, with imprisonment, for a term, not exceeding three years, or with any lighter penalty .

Maltreatment of subordinates

174. Subject to the provisions of the Criminal Act, 1991, there shall be deemed to have committed the offence of maltreatment of subordinates, whoever uses, or attempts to use criminal force, or threatens with force, or use thereof , or acts during relief of discipline and order, in an acute way, or insults, or abuses any of his/her subordinates, whether during service, or outside the same, and be punished, with imprisonment, for a term, not exceeding three years, or with any lighter penalty, in addition to any penalty, prescribed for any wound, or injury, resulting from the same .

(2) There shall be deemed to be use of force, the use of any instrument, or any part of the body;

(3) Where threat is not accompanied by any criminal force, the person, in this case, shall be punished, with expulsion, or with any lighter penalty .

Abuse of power

175. There shall be deemed to have committed the offence of abuse of power, whoever willfully abuses his/her power, or position, as a personnel of the Armed Forces, to achieve an unlawful benefit, to himself/herself, or another, and be punished, with demotion of the rank, or with any lighter penalty .

Disobedience of orders

176. There shall be deemed to have committed the offence of disobedience of orders, and be punished, with imprisonment, for a term, not exceeding five years, or with and lighter penalty, any person , who commits any of the following acts :-

- (a) refuses expressly , or tacitly to execute any legal order , issued to him/her by his /her superior officer, during discharge of his/her duties, whether such order is issued to him/her in writing , or orally, by sign or otherwise of the ways of communication;
- (b) breaches, or neglects to obey any general, or standing order, or regulations or directions;
- (c) hesitates, or delays the execution of any legal order issued, to him/her by his/her superior officer.

Impudence and insubordination

177. There shall be deemed to have committed the offence of impudence and insubordination, and be punished, with imprisonment, for a term, not exceeding three years, or with any lighter penalty, every person, who commits any of the following acts:-

- (a) uttering, to his superior officer, obscene phrases, or doing an act purporting his/her coming outside discipline and order;
- (b) refusal to obey any order, issued to him/her by any officer, even though lower in rank than him/her , to arrest him/her, during his/her participation in fight, or disturbance.

Fraud in registration, or recruitment

178.(1) There shall be deemed to have committed the offence of fraud in registration, or recruitment, and be punished, with imprisonment, for a term, not exceeding three years, or with any lighter penalty, every person who :-

- (a) recruits, while he knows, or has reason to believe, that any person does not satisfy the general conditions of recruitment;
 - (b) gives any forged documents intentionally, or gives false information, or incorrect reply, to a question, set in the form prescribed, for appointment, or recruitment;
 - (c) is a recruit in a unit, and recruits himself/herself in any other unit, without obtaining the legal dismissal, from his former unit.
- (2) Where fraud is represented in the recruitment of a person, whose age is under eighteen years, the offender shall be punished , with imprisonment, for a term, not exceeding five years.

Feigning illness

179.(1) There shall be deemed to have committed the offence of feigning illness, and be punished, with imprisonment, for a term, not exceeding three years, or with any lighter penalty, every person, who feigns illness, or willfully causes to himself/herself any illness, or wound, or willfully procrastinates his/her treatment, or increases his/her illness, or wound, to evade discharge of his/her duties, or helps another person to feign illness, or causes illness, or hurt , in such way, as may render him/her unfit for military service, or with intent thereby to help him/her to refrain from discharge of his/her duties.

(2) Where the acts, mentioned in sub-section (1) above, occur in the operations areas, or during the same, their perpetrator shall be punished, with imprisonment, for a term, not exceeding five years, or with any lighter penalty .

Influencing justice

180. There shall be deemed to have committed the offence of influencing justice, whoever willfully does any act, which by nature influences the justice of the procedure of investigation, inquiry, trial or any procedure, relating thereto , and be punished, with imprisonment, for a term, not exceeding five years, or with any lighter penalty .

Neglect to execute summons

181. There shall be deemed to have committed the offence of neglect to execute summons , whoever defaults, or neglects to execute an official summons issued to him/her to appear before a court, or

helps in the same, or causes it, and be punished, with demotion the rank, and in case of persistence, he/she shall be punished, with removal from the rank.

Offences relating to prisoners and detainees

182. There shall be deemed to have committed the offence, of neglect, or non-detention of prisoners and be punished, with imprisonment, not exceeding three years, or with any lighter penalty, every person, who:-

- (a) departs from the place of his/her imprisonment, or detention, without legal justification ;
- (b) releases any prisoner, or detainee, or causes by his/her negligence his/her escape;
- (c) in contravention of his/her duty, refrains from receiving any prisoner, or detainee, or refrains from keeping him/her in the place specified therefor.

Offences relating to sentries

183.(1) There shall be deemed to have committed an offence, and be punished, with imprisonment, for a term, not exceeding three years, or with any lighter penalty, every person, who commits during his discharge of the duties of his post, of guarding, or sentry , any of the following acts:-

- (a) sleeping, or inattention;

(b) departs, or leaves the place of his/her service, station or sentry, before the time fixed therefor, or without permission of his/her superior officer;

(c) disposes, in contravention of the law, of any property, accoutrements or documents, pertaining to any prisoner, or detainee, or the property or equipment entrusted with guarding the same.

(2) Whoever commits any of the contraventions, set out in sub-section (1) above, in the operations areas, or during the same, shall be punished, with imprisonment, for a term, not exceeding five years, or with any lighter penalty.

Contraventions relating to weapons

184.(1) Whoever disposes, in contravention of the law, of his/her weapon, ammunition, or the weapon, or ammunition of others, or his/her unit intentionally, shall be deemed to have committed a contravention, and be punished, with death, or with imprisonment, for a term , not exceeding twenty years, and with fine.

(2) Whoever causes, by his negligence, the loss of his/her weapon, ammunition, or the weapon, or ammunition of others, or his/her unit, shall be punished, with imprisonment, for a term, not exceeding ten years, and with fine .

Offences relating to military equipment, accoutrements or dress

185.(1) Whoever willfully disposes, of his/her equipment, accoutrements, dress, or those pertaining to any unit, or

personnel, or has relation to such disposal intentionally, shall be deemed to have committed an offence, and be punished, with death, or with imprisonment, for a term, not exceeding twenty years, and with fine.

- (2) Whoever, by his/her negligence, without exerting the necessary care to keep the same causes the loss of his/her equipment, accoutrements, dress or those pertaining to any unit, or personnel, shall be punished, with imprisonment, for a term, not exceeding years, and with fine .

Accusations and false statements

186. There shall be punished, with imprisonment, for a term, not exceeding five years, or with any lighter penalty, whoever :-

- (a) addresses accusation, against any person, or delivers false statements, while he/she knows that such accusation, or those statements are false;
- (b) intentionally delivers false statements, relating to the morals of any person, with intent thereby to convict, or acquit him/her , or deprive the same of any privilege, right , or grant him/her any privilege or right;
- (c) take any criminal proceeding, against any person, or causes the same, or accuses him/her falsely of committing an offence, with intent to prejudice him/her , with his /her knowledge of the non-existence of a reasonable, or lawful base for such proceeding , or accusation.

Other offences

- 187.(1) In so far as not provided for in this Act, the provisions of the Criminal Act, 1991 shall apply, and there shall be inflicted, on personnel of the Armed Forces, the penalty provided therefore therein .
- (2) The general provisions of criminal responsibility, provided for in the Criminal Act, 1991 shall apply to courts martial .
- (3) Where the offence, under which any person is convicted, under subsection (1), is punishable under the provisions of the is Act also, the applicable penalty shall be the severer penalty .
- (4) Without affecting any penalty, under the provisions of this Act, an offender may be punished, with expulsion , or imprisonment, for a term, not exceeding six months, or with any lighter penalty, where the offence occurs in circumstances, which affect the reputation of the Armed Forces, their property, or military honour , or during wearing military dress, or performing, by its perpetrator, of official tasks .

Other procedural laws

188. Courts martial and military prosecution bureaux and committees and boards of investigation shall follow the procedure, set out in the Criminal Procedure Act, 1991, in the matters, not provided for in this Act.

Legal and judicial circulars

189. The Director of the Military Judicature, upon approval of the Chief of Joint Staff may make such judicial and legal circulars, as may organize the procedure of courts martial, and military prosecution bureaux, and the judicial forms, and the forms of investigation and inquiry.

Military card

- 190.(1) Subject to the Civil Register Act, the military card shall be deemed an official document for the purposes of identification, and admission thereof shall be mandatory at all government bodies and otherwise .
- (2) Without affecting the provisions of sub-section (1) an officer on pension shall be granted a military card of the same cogency; and the regulations and systems shall organize the form and manner of granting the same .

Privileges

- 191.(1) Any officer in service, or on pension may be in possession of a hunting gun, and a private pistol; and he/she may license and renew by legal ways, without fees, according to the regulations and systems.
- (2) Any officer in service, or on pension, who attains fifty years of age, or serves for thirty years shall have the right to be exempted from the rates of one residential estate, to be specified, by recommendation of the Director of the Military Judicature Administration .
- (3) Upon retirement, of an officer of the rank of Lieutenant General and above, on pension, he/she shall retain the title of his/her rank, without reference to the word of pension .

Chapter XIII

General Provisions

Standing orders and instructions

- 192.(1) Subject to the provisions of this Act, or any other law, the Chief of Joint Staff, or whoever he/she may authorize may make, in so far as no provision is provided for, standing orders, or written instructi

ons, binding on the persons, subject to the provisions of this Act, in the following matters :-

- (a) the good management and welfare of the
Armed Forces;
 - (b) military training and discipline;
 - (c) dress, accoutrements and equipment;
 - (d) the good management of the offices and
places of accommodation;
 - (e) any other subjects, as he/she may deem
the organization thereof necessary.
- (2) The Joint Staff Headquarters of the Armed Forces shall have the power to make their standing orders, which organize the performance thereby of the work thereof, and specify the details of tasks of every one of their units, and the tasks of commanders, officers and non-commissioned officers and soldiers; provided that they shall not be inconsistent with the provisions of this Act, any other law or the regulations, made under any one of them.
- (3) All formations of the Armed Forces shall have their standing orders, which organize the work thereof, the tasks of their commanders, officers, non-commissioned officers and soldiers; on condition that they shall not be inconsistent with the provisions of the standing orders of the Joint Staff Headquarters of the Armed Forces, and the provision of this Act, any other law, or any regulations, made under any one of them .
- (4) Standing orders shall be amended, as the case may require the same.
- (5) Standing orders shall treat the matters, not treated by the laws and regulations .

- (6) The regulations shall specify the power to make systems and standing orders.

Power to make regulations

193.(1) The Minister may approve and make such regulations and orders, as may be necessary, for implementation of the provisions of this Act. Without prejudice, to the generality of the foregoing, such regulations may provide for the following :-

- (a) organization, of the structure of the Armed Forces;
- (b) conditions of appointment in the Armed Forces, and terms of service therein;
- (c) bases of promotions , transfers and leaves;
- (d) bases of secondment and loan, inside and outside, and diplomatic representation;
- (e) types of accoutrements and dress, used in the Armed Forces;
- (f) the bases, and safeguards of the promotion of performance of the Armed Forces;
- (g) procedure of Minor and Major Field Courts,, and the forms of trials;
- (h) the bases and safeguards of participation of the Armed Forces in the international and regional missions, and the systems and rules of engagement in such missions;

- (i) bases of study and training missions, inside and outside, according to the need of the Armed Forces;**
 - (j) bases of promotion of training and educational institutions, in the Armed Forces;**
 - (k) control of such services and social work , as may achieve the welfare of personnel;**
 - (l) bases of training the personnel, and rehabilitation of military equipment;**
 - (m) establishment, organization and management of the necessary services and training utilities;**
 - (n) safeguards, bases and powers of commanders in summary trials;**
 - (o) promotion and development of military environment.**
- (2) The Minister, in consultation with the Commander in Chief, and Minister of Finance and National Economy may make such financial regulations, as may organize increments, allowances and financial emoluments, and the exemptions, pertaining to the persons, subject to the provisions of this Act.**

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