

Army Act, 1950

Chapter VIII - Penal Deductions

The following penal deductions may be made from the pay and allowances of an officer, that is to say,--

- (a) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to his commanding officer and has been approved by the Central Government;
- (b) all pay and allowances for every day while he is in custody or under suspension from duty on a charge for an offence for which he is afterwards convicted by a criminal court or a court-martial or by an officer exercising authority under section 83 or section 84;
- (c) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;
- (d) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by the court-martial by whom he is convicted of such offence, or by an officer exercising authority under section 83 or section 84;
- (e) all pay and allowances ordered by a court-martial¹[***] to be forfeited or stopped;
- (f) any sum required to pay a fine awarded by a criminal court or a court-martial exercising jurisdiction under section 69;
- (g) any sum required to make good any loss, damage, or destruction of public or regimental property which, after due investigation, appears to the Central Government to have been occasioned by the wrongful act or negligence on the part of the officer;
- (h) all pay and allowances forfeited by order of the Central Government if the officer is found by a court of inquiry constituted by²[the Chief of the Army Staff] in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of, the enemy, or in any manner to have aided the enemy, or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;
- (i) any sum required by order of the Central Government³[or any prescribed officer] to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

1 . The words "or an officer exercising authority under section 85 " omitted by Act 37 of 1992 , sec. 7 (w .e.f . 6 - 9 - 1992) .

2 . Substituted b y Act 19 of 1955 , sec. 2 and Sch., for "the Commander-in-Chief."

3 . Inserted b y Act 37 of 1992 , sec. 7 (w .e.f . 6 - 9 - 1992) .

Section 91 - Deductions from pay and allowances of persons other than officers

Subject to the provisions of section 94 the following penal deductions may be made from the pay and allowances of a person subject to this Act other than an officer, that is to say,--

- (a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of transportation or imprisonment awarded by a criminal court, a court-martial or an officer exercising authority under section 80, ¹[***];
- (b) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or a court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment ²[***] by an officer exercising authority under section 80;
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;
- (d) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Central Government or such officer as may be specified by that Government;
- (e) all pay and allowances ordered by a court-martial or by an officer exercising authority under any of the sections 80,

83, 84 and 85, to be forfeited or stopped;

(f) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of, the enemy;

(g) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property as may be awarded by his commanding officer;

(h) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 69, or an officer exercising authority under any of the sections 80 and 89;

(i) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

1. The words ", or of field punishment awarded by a court-martial or such officer" omitted by Act 37 of 1992, sec. 8 (w.e.f. 6-9-1992).

2. The words "or field punishment" omitted by Act 37 of 1992, sec. 8 (w.e.f. 6-9-1992).

Section 92 - Computation of time of absence or custody

For the purposes of clauses (a) and (b) of section 91,--

(a) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another, for six consecutive hours or upwards;

(b) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person;

(c) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

(d) a period of absence, or imprisonment, which commences before, and ends after, midnight, may be reckoned as a day.

Section 93 - Pay and allowances during trial

In the case of any person subject to this Act who is in custody or under suspension from duty on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (b) of sections 90 and 91.

Section 94 - Limit of certain deductions

The total deductions from the pay and allowances of a person made under clauses (e), (g) to (i) of section 91 shall not, except where he is sentenced to dismissal, exceed in any one month one-half of his pay and allowances for that month.

Section 95 - Deduction from public money due to a person

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

Section 96 - Pay and allowances of prisoner of war during inquiry into his conduct

Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of, the enemy, is to be inquired into under this Act or any other law,¹ [the Chief of the Army Staff] or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.

1. Substituted by Act 19 of 1955, sec. 2 and Sch., for "the Commander-in-Chief."

Section 97 - Remission of deductions

Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent, and by such authority, as may from time to time be prescribed.

Section 98 - Provision for dependants of prisoner of war from remitted deductions

In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under

clause (h) of section 90 or clause (a) of section 91, but in respect of whom a remission has been made under section 97, it shall be lawful for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

Section 99 - Provision for dependants of prisoner of war from his pay and allowances

It shall be lawful for proper provision to be made by the prescribed authorities for any dependants of any person subject to this Act who is a prisoner of war or is missing, out of his pay and allowances.

Section 100 - Period during which a person is deemed to be a prisoner of war

For the purposes of sections 98 and 99, a person shall be deemed to continue to be a prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 96. and if he is cashiered or dismissed from the service in consequence of such conduct, until the date of such cashiering or dismissal.
