

Army Act, 1950

Chapter IX - Arrest and Proceedings Before Trial

- (1) Any person subject to this Act who is charged with an offence may be taken into military custody.
 - (2) Any such person may be ordered into military custody by any superior officer.
 - (3) An officer may order into military custody any officer, though he may be of higher rank, engaged in a quarrel, affray or disorder.
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Section 102 - Duty of commanding officer in regard to detention

- (1) It shall be the duty of every commanding officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.
 - (2) The case of every person being detained in custody beyond a period of forty-eight hours, and the reason thereof, shall be reported by the Commanding Officer to the General or other officer to whom application would be made to convene a general or district court-martial for the trial of the person charged.
 - (3) In reckoning the period of forty-eight hours specified in sub-section (1), Sundays and other public holidays shall be excluded.
 - (4) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in military custody, pending the trial by any competent authority for any offence committed by him.
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Section 103 - Interval between committal and court-martial

In every case where any such person as is mentioned in section 101 and as is not on active service remains in such custody for a longer period than eight days, without a court-martial for his trial being ordered to assemble, a special report giving reasons for the delay shall be made by his commanding officer in the manner prescribed, and a similar report shall be forwarded at intervals of every eight days until a court-martial is assembled or such person is released from custody.

Section 104 - Arrest by civil authorities

Wherever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any magistrate or police officer, such magistrate or police officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

Section 105 - Capture of deserters

- (1) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs, shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, into military custody.
 - (2) Any police officer may arrest without warrant any person reasonably believed to be subject to this act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.
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Section 106 - Inquiry into absence without leave

- (1) When any person subject to this Act has been absent from his duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be assembled, and such court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any, and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.
 - (2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.
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Section 107 - Provost-marshals

(1) Provost-marshals may be appointed by¹[the Chief of the Army Staff] or by any prescribed officer.

(2) The duties of a provost-marshal are to take charge of persons confined for any offence, to preserve good order and discipline, and to prevent breaches of the same by persons serving in, or attached to, the regular Army.

(3) A provost-marshal may at any time arrest and detain for trial any person subject to this Act who commits, or is charged with an offence, and may also carry into effect any punishment to be inflicted in pursuance of the sentence awarded by a court-martial, or by an officer exercising authority under section 80 but shall not inflict any punishment on his own authority:

Provided that no officer shall be so arrested or detained otherwise than on the order of another officer.

(4) For the purposes of sub-sections (2) and (3), a provost-marshal shall be deemed to include a provost-marshal appointed under any law for the time being in force relating to the Government of the Navy or Air Force, and any person legally exercising authority under him or on his behalf.

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