

Air Force Act, 1950

Chapter X - Courts-martial

For purposes of this Act there shall be three kinds of courts-martial, that is to say,--

- (a) general courts-martial.
 - (b) district courts-martial.
 - (c) summary general courts-martial.
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Section 110 - Power to convene a general court-martial

A general court-martial may be convened by the Central Government or [1](#)[the Chief of the Air Staff] or by any officer empowered in this behalf by warrant of [2](#)[the Chief of the Air Staff].

- 1. Substituted for the words "the Commander-in-Chief" by the Commanders-in-chief (Change in Designation) Act, (19 of 1955), S. 2 and Sch. (7-5-1955).
 - 2. Substituted for the words "the Commander-in-Chief" by the Commanders-in-Chief (Change in Designation) Act (19 of 1955), S. 2 and Sch. (1-5-1955).
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Section 111 - Power to convene a district court - martial

A district court-martial may be convened by an officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

Section 112 - Contents of warrants issued under sections 110 and 111

A warrant issued under section 110 or section 111 may contain such restrictions, reservatoions or conditions as the officer issuing it may think fit.

Section 113 - Power to convene a summary general court-martial

The following authorities shall have the power to convene a summary general court-martial, namely :--

- (a) an officer empowered in this behalf by an order of the Central Government or of [1](#)[the Chief of the Air Staff];
- (b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;

(c) an officer commanding any detached portion of the Air Force on active service when, in his opinion, it is not practicable with due regard to discipline and the exigencies of the service, that an offence should be tried by a general court-martial.

1. Substituted for the words "the Commander-in-Chief" by the Commanders-in-chief (Change in Designation) Act, (19 of 1955), S. 2 and Sch. (7-5-1955).

Section 114 - Composition of general court-martial

A general court-martial shall consist of not less than five officers, each of whom has held a commission for not less than three whole years and of whom not less than four are of a rank not below that of flight-lieutenant.

Section 115 - Composition of district court-martial

A district court-martial shall consist of not less than three officers, each of whom has held a commission for not less than two whole years.

Section 116 - Composition of summary general court-martial

A, summary, general court-martial shall consist of not less than three officers

Section 117 - Dissolution of court-martial

(1) If a court-martial after the commencement of a trial is reduced below the minimum number of Officers required by this Act, it shall be dissolved.

(2) If, on account of the illness of the judge advocate or of the accused before the finding it is impossible to continue the trial, a court-martial shall be dissolved.

(3) The officer who convened a court-martial may dissolve such court-martial if it appears to him that the exigencies of the service or the necessities of discipline render it impossible or in expedient to continue the said court-martial

(4) Where a court-martial is dissolved under this section, the accused may be tried again.

Section 118 - Powers of general and summary general courts-martial

A general or summary general court- martial shall have power to try any person subject to this Act for any offence punishable there in and to pass any sentence authorised thereby.

Section 119 - Powers of district Court-martial

A district court-martial shall have power to try any person subject to this Act other than an officer or warrant officer for any offence made punishable therein, and to pass any sentence authorised by this Act other than a sentence of death, transportation, or imprisonment for a term exceeding two years.

Section 120 - Prohibition of second trial

When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been dealt with under section 82 or section 86, he shall not be liable to be tried again for the same offence by a court-martial or dealt with under the said sections.

Section 121` - Period of limitation for trial

(1) Except as provided by sub-sec. (2), no trial by court-martial of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(2) The provisions of sub-section (1) shall not apply to a trial for an offence of desertion or fraudulent enrolment or for any of the offences mentioned in section 37.

(3) In the computation of the period of time mentioned in sub-section (1) any time spent by such person as a prisoner of war, or in enemy territory, or in evading arrest after the commission of the offence, shall be excluded.

(4) No trial for an offence of desertion, other than desertion of active service or of fraudulent enrolment shall be commenced if the person in question, not being an officer, has subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of the Air Force.

Section 122 - Liability of offender who ceases to be subject to Act

(1) Where an offence under this Act had been committed by any person while subject to this Act and he has ceased to be so subject; he may be taken into and kept in air force custody, and tried and punished for such offence as if he continued to be so subject.

(2) Except as provided by sub-sections (3) and (4), any such person shall not be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act.

(3) The provisions of sub-section (2) Shall not apply to the trial of any such person for an offence of desertion or fraudulent enrolment or for any of the offences mentioned in section 37.

(4) Nothing contained in sub-section (2) shall affect the jurisdiction of a Civil Court to try any offence triable by such Court as well as by a court-martial.

(5) When a person subject to this Act is sentenced by a court-martial to transportation or imprisonment, this Act shall apply to him during the term of his sentence, though he is cashiered or dismissed from the Air Force, or has otherwise ceased to be subject to this Act and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(6) When a person subject to this Act it sentenced by a court-martial to death, this Act shall apply to him till the sentence is carried out.

Section 123 - Place of trial

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

Section 124 - Choice between criminal court and court-martial

When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of 1[the Chief of the Air Staff], the officer commanding any group, wing or station in which the accused prisoner is serving of such other officer as may be prescribed to decide before which court the proceedings shall be instituted, and, if that officer decides that they should be instituted before a court-martial, to direct that the accused person shall be detained in Air force custody.

1. Substituted for the words "the Commander-in-Chief" by the Commanders-in-Chief (Change in Designation) Act (19 of 1955), S. 2 and Sch. (7-5-1933).

Section 125 - Power of criminal court to require delivery of offendec

(1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 124 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded, against according to law, or to postpone proceedings pending a reference to the Central Government

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

Section 126 - Successive trials by a criminal, court and a court-martial

(1) A person convicted or acquitted by a court-martial may, with the previous sanction of the Central Government, be tried again by a criminal court for the same offence, or on the same facts.

(2) If a person sentenced by a court-martial under this Act or punished under section 82 or section 86 is afterwards tried and convicted by a criminal court for the same offence or on the same facts, that court shall in awarding punishment have regard to the punishment he may already have undergone for the said offence.
