

THE BURMA NAVAL DISCIPLINE (AMENDMENT) ACT, 1957.

[Act No. XX of 1957.]

It is hereby enacted as follows :—

1. This Act may be called the Burma Naval Discipline (Amendment) Act, 1957.

2. *After* section 27 of the Burma Naval Discipline Act, 1947, hereinafter referred to as the said Act, the following *shall be inserted* as sections 27A and 27B, namely :—

“ 27A. Every person subject to this Act who commits any of the following offences, that is to say—

Penalty for fraudulent enrolment. (a) without having first obtained, a regular discharge from the naval service, enrolls himself in the same or any other service or the Burma Territorial Force ; or

(b) knowing, or having reason to believe, that a person is a deserter, procures or attempts to procure the enrolment of such person ;

shall suffer imprisonment or such other punishment as is hereinafter mentioned.

27B. Any person subject to this Act, who being in lawful custody, escapes or attempts to escape, shall suffer imprisonment or such other punishment as is hereinafter mentioned. ”

3. In sub-section (2) of section 58 of the said Act, for the words “ three months ”, the words “ one year ” *shall be substituted*.

4. *After* section 60 of the said Act, the following *shall be inserted* as PART III A, sections 60A, 60B and 60c, namely :—

“ PART III A.

PENAL DEDUCTIONS.

60A. (1) The following penal deductions may be made from the pay and allowances of a commissioned officer, that is to say—

Deductions from pay and allowances.

(a) all pay and allowances for every day of absence without leave, unless a satisfactory explanation has been given through his commanding officer and has been approved by the President of the Union ;

(b) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of any 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 54 (11) ;

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- (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 any loss, damage or destruction of public or service property which, after due investigation, appears to the President of the Union to have been occasioned by any wrongful act or negligence on the part of the commissioned officer ;
 - (e) all pay and allowances ordered by a court-martial or by an officer exercising authority under section 54 (11) to be forfeited or stopped ;
 - (f) all pay and allowances for every day while he is in custody or under suspension from duty on a charge for an offence of which he is afterwards convicted by a criminal court or a court-martial or by an officer exercising authority under section 54 (11) ;
 - (g) any sum required to pay a fine awarded by a criminal court or a court-martial ;
 - (h) any sum required by order of the President of the Union to be paid for the maintenance of the commissioned officer's wife or his legitimate or illegitimate children or towards the cost of any relief given by the Government to the said wife or children ;
 - (i) all pay and allowances forfeited by order of the President of the Union if the officer is found by a court of inquiry constituted by the Officer Commanding, Burma Navy, or any officer authorized by the President of the Union in this behalf, to have deserted to the enemy, or while in the hands of the enemy, 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 the precaution or through disobedience of orders of 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.
- (2) The following penal deductions may be made from the pay and allowances of a person subject to this Act other than a commissioned 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 imprisonment or detention awarded by a criminal court, a court-martial or an officer exercising authority under section 54 (11) ;
 - (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment or detention, by an officer exercising authority under section 54 (11) ;
 - (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 President of the Union ;
- (e) all pay and allowances ordered by a court-martial or by an officer exercising authority under section 54 (11) to be forfeited ;
- (f) any sum ordered by a court-martial or by an officer exercising authority under section 54 (11) to be stopped ;
- (g) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessaries or military decoration, or to any buildings 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, or by an officer exercising authority under section 54 (11) ;
- (i) any sum required by order of the Officer Commanding, Burma Navy or any officer authorized by the President of the Union for the purpose, to be paid for the maintenance of such person's wife or his legitimate or illegitimate children or towards the cost of any relief given by the Government to the said wife or children ;
- (j) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the naval service in consequence of his conduct when being taken prisoner by, or while in the hands of the enemy :

Provided that the total deductions from the pay and allowances of a person subject to this Act other than a commissioned officer made under clause (f) to (j) both inclusive, shall not except in the case of a person sentenced to dismissal exceed in any one month one-half of his pay and allowances for that month.

Explanation.—For the purposes of clauses (a) and (b) of sub-section (2)—

- (i) absence or custody for six consecutive hours or upwards, whether wholly in one day or partly in one day and partly in another, may be reckoned as absence or custody for a day ;
- (ii) 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 ;
- (iii) 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 ; and

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

60B. 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 President of the Union or an officer authorized by him in this behalf may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of the trial on the charge against him, in order to give effect to the provisions of clause (f) of sub-section (1) or clause (b) of sub-section (2) of section 60A.

60c. Any sum authorized 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".

5. Section 98 of the said Act *shall be deleted*.

6. *After* section 99A of the said Act, the following *shall be inserted* as sections 99B and 99c, namely: —

"99B. The Officer Commanding the Burma Navy or any officer authorized by the President of the Union in this behalf may at any time dismiss from the naval service any person subject to this Act other than an officer.

Dismissal by the Officer Commanding the Burma Navy.

Provided that a Warrant Officer Class I shall not be dismissed by an officer other than the Officer Commanding the Burma Navy.

99c. Any officer authorized by the President of the Union in this behalf may, in conformity with any rules made for the purpose, discharge from the naval service any person subject to this Act."