

THE BURMA AIR FORCE (DISCIPLINE) (AMENDMENT)  
ACT, 1957.

[ACT No. XXI OF 1957.]

It is hereby enacted as follows:—

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

2. In section 25 of the Burma Air Force (Discipline) Act, 1947, hereinafter referred to as the said Act,—

(i) *after* the words “of such offence” in clause (b) of sub-section (1), the following *shall be inserted*, namely:—

“or by an officer exercising authority under section 24.”

(ii) *for* the period (.) at the end of clause (d) of sub-section (1) a semi-colon (;) *shall be substituted*, and *after* the said clause (d) the following *shall be inserted* as clauses (e), (f), (g), (h) and (i), namely:—

“(e) 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 24 ;

(f) all pay and allowances ordered by a court-martial or an officer exercising authority under section 24 to be forfeited or stopped ;

(g) any sum required to pay a fine awarded by a criminal court or a court-martial exercising jurisdiction under section 57 ;

(h) 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 the Burma Air Force, or any prescribed officer 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 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 for him to do so ;

(i) 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.”; and

(iii) in sub-section (2),—

(a) *for* the colon (:) at the end of clause (i) a semi-colon (;) *shall be substituted*, and *after* the said clause (i), the

Price.—10 pyas]

following *shall be inserted* as clauses (i) and (j), namely :—

- “(i) any sum required by the Officer Commanding the Burma Air Force, or any prescribed officer, 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 service in consequence of his conduct while being taken prisoner by, or while in the hands of, the enemy :” and

(b) in the proviso to sub-section (2), for the words “ clauses (e) to (g) ’, the words “ clauses (e) to (i) ” *shall be substituted.*

3. *After* section 25 of the said Act, the following *shall be inserted* as section 25A, namely :—

“ 25A. 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 the trial on the charge against him, in order to give effect to the provisions of clause (e) of sub-section (1), or clause (b) of sub-section (2) of section 25 ”.

4. *For* section 64 of the said Act, the following *shall be substituted*, namely :—

“ 64. For the purposes of this Act, there shall be four kinds of courts-martial, that is to say :—

Kinds of courts-martial.	(1) general courts-martial ;
	(2) district courts-martial ;
(3) field general courts-martial ; and	
(4) summary courts-martial”.	

5. *After* section 71 of the said Act, the following *shall be inserted* as section 71A, namely :—

“ 71A. (1) A summary court-martial may be held—

Composition and convening of summary courts-martial.	(a) by the commanding officer of a station, squadron, unit or detachment of the air force ;
(b) by any commanding officer mentioned in clause (a) under whose command or orders, details subject to this Act are serving on attachment.	

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers who shall not, as such, be sworn or affirmed”.

6. *After* section 75 of the said Act, the following *shall be inserted* as section 75A, namely :—

“75A. (1) A summary court-martial may try any person subject to this Act and under the command of the officer holding the court, except an officer or warrant officer, and may pass any sentence authorized by this Act except a sentence of death or transportation, or of imprisonment for a term exceeding one year, or of detention for a term exceeding one year.

(2) A summary court-martial may try any offence punishable under any of the provisions of this Act :

Provided that there is no grave reason for immediate action, and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial, or on active service a field general court-martial for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any of the following offences, namely :—

- (i) any offence punishable under sections 30, 34 and 57, or
- (ii) any offence against the officer holding the court ”

7. *For* section 77 of the said Act, the following *shall be substituted*, namely :—

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

(2) The provisions of sub-section (1) shall not apply to the trial of an offence of desertion, fraudulent enrolment or any of the offences mentioned in section 34.

(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 or in hospital during the period of arrest or suspension from duty, after the commission of an offence, shall be excluded.

(4) No trial for an offence of desertion other than desertion on active service or of fraudulent enrolment shall be commenced if the person in question, not being a commissioned 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 regular forces ”.

8. *After* section 103 of the said Act, the following *shall be inserted* as sections 103A and 103B, namely :—

“103A. The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith :

Finding and sentence of a summary court-martial.

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry

into effect any sentence until it has received the approval of the Officer Commanding the Burma Air Force, or the prescribed officer.

- 103B. The proceedings of a summary court-martial shall without delay be forwarded to the Officer Commanding the Burma Air Force, or to the prescribed officer, and such officer may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the court might have passed".