

The Army and Air Force (Disposal of Private Property) Act, 1950

[ACT NO. 40 OF 1950]

(*As on the 21st July, 2025*)

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LIST OF AMENDING ACTS

1. The Repealing and Amending Act, 1957 (36 of 1957).
2. The Dock Workers (Regulation of Employment) Amendment Act, 1970 (30 of 1970).
3. The Delegated Legislation Provision (Amendment) Act, 1983 (20 of 1983).
4. The Army and Air Force (Disposal of Private Property) Amendment Act, 2000 (31 of 2000).

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LIST OF ABBREVIATIONS USED

Cl.,cls.	. . . . .	*for*	Clause, clauses.
Ins.	. . . . .	,,	Inserted.
Notifn.	. . . . .	,,	Notification.
S., ss.	. . . . .	,,	Section, sections
Sch.	. . . . .	,,	Schedule.
Subs.	. . . . .	,,	Substituted
w.e.f.	. . . . .	,,	with effect from.

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THE ARMY AND AIR FORCE (DISPOSAL OF PRIVATE PROPERTY) ACT, 1950.

ARRANGEMENT OF SECTIONS

SECTIONS

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THE ARMY AND AIR FORCE (DISPOSAL OF PRIVATE PROPERTY) ACT, 1950.

ACT NO. 40 OF 1950[1]

[28*th April,* 1950.]

An Act to provide for the disposal of the private property of persons subject to the Army Act, 1950 or the Air Force Act, 1950 , who die or desert or are ascertained to be of unsound mind or while on active service are officially reported to be missing.

BE it enacted by Parliament as follows:—

1. Short title, extent and commencement.—(*1*) This Act may be called the Army and Air Force (Disposal of Private Property) Act, 1950.

(*2*) It extends to the whole of India, and applies to citizens of India and persons subject to the Army Act, 1950 (46 of 1950), or the Air Force Act, 1950 (45 of 1950), wherever they may be.

(3) It shall come into force on such date[2] as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*1*) "Committee" means the Committee of Adjustment constituted under section 4;

(*2*) "prescribed" means prescribed by rules made under this Act;

(*3*) "regimental and other debts in camp or quarters" includes—

(*i*) in relation to any person subject to the Army Act, 1950 (45 of 1950), moneys due as military debts, namely, sums due in respect of or of any advance in respect of—

(*a*) quarters;

(*b*) mess, band and other regimental accounts;

(*c*) military clothing, appointments and equipments, not exceeding a sum equal to three months' pay of the deceased and having become due within eighteen months before the date of his death; and

(*ii*) in relation to any person subject to the Air Force Act, 1950 (45 of 1950), moneys due as air force debts, namely, sums due in respect of or of any advance in respect of—

(*a*) quarters;

(*b*) mess, band and other service accounts;

(*c*) air force clothing, appointments and equipments, not exceeding a sum equal to three months' pay of the deceased and having become due within eighteen months before the date of his death;

(*4*) "representation" includes probate, letters of administration, with or without the will annexed and a succession certificate, constituting a person executor or administrator of the estate of a deceased person or authorising him to receive or realise the assets of a deceased person;

1. This Act has been extended to—
Goa, Daman and Diu with modifications by Reg. 12 of 1962, s. 3 and Schedule (w.e.f. 31-1-1963) and comes into force in Pondicherry *vide* Reg. 7 of 1963, s. 3 and brought into force in Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Schedule I (w.e.f. 1-10-1963);

2. 22nd July, 1950, *vide* notification No. S.R.O. 123, dated 22nd July, 1950, *see* Gazette of India, 1950, part II, s. 3.

(*5*) "representative" means any person who has taken out representation, but does not include an Administrator General;

(*6*) all words and expressions used herein and defined in the Army Act, 1950 (45 of 1950), or the Air Force Act, 1950 (45 of 1950), and not in this Act defined shall be deemed to have the meaning respectively attributed to them by those Acts.

3. Property of deceased persons and deserters other than officers.—(*1*) On the death or desertion of any person, not being an officer, subject to the Army Act, 1950 (45 of 1950), or the Air Force Act, 1950 (45 of 1950), as the case may be, the commanding officer of the corps, department, detachment or unit to which the deceased or deserter belonged, shall, as soon as may be and subject to any rules that may be made in this behalf—

(*a*) secure all the movable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made,

(*b*) draw the pay and allowances due to such person,

(*c*) make due provision for the payment of regimental and other debts in camp or quarters, if any, of such persons.

(*2*) In the case of a deceased person, the commanding officer,—

(*a*) if in any case not otherwise provided for by rules made under this Act it appears to him to be necessary to make provision for the payment of regimental and other debts in camp or quarters, the funeral expenses of the deceased and the expenses, if any, incurred by the commanding officer in respect of the estate of the deceased, shall, and—

(*b*) in any other case, may,—

collect all moneys left by the deceased in any banking company (including any post office savings bank, co-operative bank or society or any other institution receiving deposits in money however named) and for that purpose may require the agent, manager or other proper officer of such banking company, society or other institution to pay the moneys to the commanding officer forthwith, notwithstanding anything in the rules of the banking company, society or other institution, and such agent, manager or other officer shall be bound to comply with the requisition.

(*3*) Where any money has been paid by a banking company, society or other institution in compliance with a requisition made under sub-section (*2*), no person shall have any claim against the banking company, society or other institution in respect of such money.

(*4*) Where the representative of a deceased has given security to the satisfaction of the commanding officer for the payment of the regimental and other debts in camp or quarters, if any, and of the funeral expenses of the deceased in cases where no provision for the payment of such expenses has been made otherwise and of the expenses, if any, incurred by the commanding officer in respect of the estate of the deceased, the commanding officer shall deliver over the property received by him under sub-sections (*1*) and (*2*) to that representative, whereupon his responsibility for the administration of the estate of the deceased shall cease.

(*5*) In the case of a deceased whose estate has not been dealt with under sub-section (*4*), or under section 10, and in the case of a deserter, the commanding officer,—

(*i*) if in any case it is necessary in his opinion so to do for the purpose of securing the payment of the regimental and other debts in camp or quarters of the deceased or deserter, the funeral expenses of the deceased, if any, and the expenses, if any, incurred by the commanding officer in respect of the estate of the deceased or deserter, shall, and

(*ii*) in any other case, may

cause the movable property of the deceased or deserter, as the case may be, to be sold or converted into money.

(*6*) The commanding officer shall, out of the moneys received, collected or realised under sub-sections (*1*), (*2*) and (*5*), pay the regimental and other debts in camp or quarters, if any, of the deceased or deserter, as the case may be, the expenses, if any, incurred by the commanding officer in respect of the estate of the deceased or deserter, and in the case of a deceased his funeral expenses in cases where no provision for the payment of such expenses has been made otherwise.

(*7*) The surplus, if any, after payment of the debts and expenses specified in sub-section (*6*), shall,—

(*a*) in the case of a deceased, be paid to his representative, if any, or in the event of no claim to such surplus being established within twelve months after the death, to the prescribed person; and

(*b*) in the case of a deserter, be forthwith paid to the prescribed person, and shall, on the expiry of three years from the date of desertion, be forfeited to the Central Government, unless the deserter shall have surrendered or been apprehended in the meantime:

Provided that the prescribed person may, if the deserter has not surrendered or been apprehended in the meantime, pay the whole or any part of the surplus received by him under clause (*b*) to the wife or children or any other dependant of the deserter at any time during the said period of three years.

Explanation.—In this section and in section 4, the word "officer" with reference to persons subject to the Air Force Act, 1950 (45 of 1950), includes a warrant officer who has died or deserted.

4. Property of officers who die or desert.—The provisions of section 3 shall also apply to the disposal of the property of any officer subject to the Army Act, 1950 (45 of 1950), or the Air Force Act, 1950 (45 of 1950), who dies or deserts, but with the following modifications, namely:—

(*i*) the functions of the commanding officer under section 3 shall be performed by a Committee of Adjustment constituted in this behalf in the prescribed manner;

(*ii*) the surplus, if any, after payment of the debts and expenses specified in sub-section (*6*) of section 3, shall in the case of a deceased officer, be paid to the prescribed person.

5. Decision of questions as to regimental and other debts in camp or quarters.—If in any case a doubt or difference arises as to what are the regimental and other debts in camp or quarters of a deceased or deserter or as to the amount payable in respect thereof, the decision of the prescribed person shall be final and shall be binding on all persons for all purposes.

6. Representative powers of commanding officer or Committee.—For the purpose of the exercise of his or its duties under section 3 or section 4, the commanding officer or the Committee, as the case may be, shall, to the exclusion of all other persons and authorities whomsoever or whatsoever have the same rights and powers as if he or it had taken out representation to the estate of the deceased, and any receipt given by the commanding officer or the Committee, as the case may be, shall have effect accordingly.

7. Power of Central Government to hand over estate or deceased person to the Administrator General.—(*1*) Notwithstanding anything contained in [1] [the Administrators-General Act, 1963 (45 of 1963)], an Administrator General shall not interpose in any manner in relation to any property of a deceased which has been dealt with under the provisions of section 3 or section 4, except in so far as he is expressly required or permitted to do so by or under the provisions of this Act.

(*2*) The Central Government may, at any time and in such circumstances as it thinks fit, direct that the estate of a deceased shall be handed over by the commanding officer or the Committee, as the case may

1. Subs. by Act 31 of 2000, s. 2, for "the Administrator General's Act ,1913 (3 of 1913)" (w.e.f. 25-8-2000).

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be, to the Administrator General of a State for administration, and thereupon the commanding officer or the Committee, as the case may be, shall make over the estate to such Administrator General.

(*3*) Where under this section any estate is handed over to the Administrator General, the Administrator General shall administer such estate in accordance with the provisions of [1] [the Administrators General Act, 1963 (45 of 1963)], or, if that Act is not in force in any State, of the corresponding law in force in that State:

Provided that the regimental and other debts in camp or quarters of the deceased, if any, shall be paid by the Administrator General in priority to any other debts due by the deceased.

(*4*) The Administrator General shall pay the surplus, if any, remaining in his hands after discharging all debts and charges, to the heirs of the deceased, and, if no heir is traceable, shall make over the surplus in the prescribed manner to the prescribed person.

(*5*) The Administrator General shall not charge in respect of his duties under this section any fee exceeding three per cent. of the gross amount coming to or remaining in his hands after payment of the regimental and other debts in camp or quarters.

8. Disposal of surplus by prescribed persons.—On receipt of the surplus referred to in sub-section (*7*) of section 3 or clause (*ii*) of section 4 or sub-section (*4*) of section 7, the prescribed person shall,—

(*a*) if he knows of a representative of the deceased, pay the surplus to that representative;

(*b*) if he does not know of any such representative and the surplus has not been disposed of under section 10, publish every year a notice in the prescribed form and manner for six consecutive years and if no claim to the surplus is made by a representative of the deceased within six months even after the publication of the last of such notices, the prescribed person shall deposit the surplus together with any income or accumulation of income accrued therefrom to the credit of the Central Government:

Provided that such deposit shall not bar the claim of any person to such surplus or any part thereof, if he is otherwise entitled to it.

9. Disposal of effects, not money.—Where any part of the estate of a deceased person consists of effects, securities or other property not converted into money, the provisions of sub-section (*7*) of section 3, clause (*ii*) of section 4 and section 8, with respect to the payment of the surplus, shall, save as may be prescribed, extend to the delivery, transmission or transfer of such effects, securities or property, and the prescribed person shall have the same power of converting the same into money as a representative of the deceased

10. Disposal of certain property without production of probate, etc.—Property deliverable and money payable to the representative of a deceased under section 3 or section 4 or section 8 may, if the total amount or value thereof does not exceed [2][two lakhs] rupees and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased without requiring such person to produce any probate, letters of administration, succession certificate or other such conclusive evidence of title.

11. Discharge of commanding officer, Committee, prescribed person and the Central Government.—Any payment or application of money or application, delivery, sale or other disposition of any property made, or purported to be made, by the commanding officer, the Committee or the

1. Subs. by Act 31 of 2000, s. 2, for "the Administrator General's Act, 1913 (3 of 1913)" (w.e.f. 25-8-2000).
2. Subs. by s. 3, *ibid*., for "ten thousand" (w.e.f. 25-8-2000).

prescribed person in good faith in pursuance of section 3, section 4, section 8, section 9 or section 10 shall be valid and shall be a full discharge to the commanding officer, the Committee or the prescribed person, as the case may be, and to the Central Government from all further liability in respect of that money of property; but nothing herein contained shall affect the right of any executor or administrator or other representative, or of any creditor of the deceased against any person to whom such payment or delivery has been made.

12. Property in the hands of commanding officer, Committee or prescribed person not to be assets where commanding officer, Committee or prescribed person is stationed.—Any property coming into the hands of the commanding officer or the Committee or the prescribed person under section 3, section 4 or sub-section (*4*) of section 7 shall not, by reason thereof, be deemed to be assets of effects at the place in which that commanding officer or the Committee or the prescribed persons is stationed, and it shall not be necessary by reason thereof that representation be taken out in respect of that property for that place.

13. Saving of rights of representative.—After the commanding officer, or the Committee has paid to the prescribed person the surplus of the property of any deceased under sub-section (*7*) of section 3 or clause (*ii*) of section 4, any representative of the deceased or any Administrator General, shall, as regards any property of the deceased not collected by the commanding officer or the Committee, as the case may be, and not forming part of the aforesaid surplus, have the same rights and duties as if sections 3 and 4 had not been enacted.

14. Application of sections 3 to 13 to persons of unsound mind or to persons reported missing on active service.—The provisions of sections 3 to 13 shall, so far as they can be made applicable, also apply in the case of a person subject to the Army Act, 1950 (45 of 1950), or the Air Force Act, 1950 (45 of 1950), as the case may be, who, notwithstanding anything contained [1][the Mental Health Act, 1987 (14 of 1987)], is ascertained in the prescribed manner to be of unsound mind, or who, while on active service, is officially reported missing, as if he had died on the day on which his unsoundness of mind is so ascertained or, as the case may be, on the day on which he is officially reported missing:

Provided that in the case of a person so reported missing, no action shall be taken under sub-sections (*2*) to (*6*) or section 3 or section 4 or section 7 until such time as he is officially presumed to be dead.

15. Appointment of standing Committee of Adjustment in certain cases.—When an officer dies or deserts or is ascertained in the prescribed manner to be of unsound mind or while on active service is officially reported missing, the references in the foregoing provisions of this Act to the Committee shall be construed as references to the Standing Committee of Adjustment, if any, constituted in this behalf in the prescribed manner and such Standing Committee shall alone be entitled to perform all the functions of the Committee under this Act.

16. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules[2] for the purpose of carrying into effect the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the manner in which any property belonging to a deceased or deserter may be secured or collected and his regimental and other debts in camp or quarters paid;

(*b*) provide for the payment of the funeral expenses of any deceased;

1. Subs. by Act 31 of 2000, s. 4, for "the Indian Lunacy Act, 1912 (4 of 1912)" (w.e.f. 25-8-2000).
2. Subs. by Act 20 of 1983, s. 2, and the Sch. (w.e.f. 15-3-1984).

(*c*) provide for the constitution of the Committee of Adjustment or any Standing Committee of Adjustment under this Act;

(*d*) specify the person who shall be regarded as the prescribed person for the purposes of this Act;

(*e*) prescribe the circumstances in which the estate of any deceased shall be handed over to the Administrator General;

(*f*) prescribe the form and manner in which a notice under section 8 shall be published;

(*g*) prescribe the procedure by which any person may be ascertained to be of unsound mind.

[1][(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

17. [*Repeals*.] *Rep. by the Repealing and Amending Act*, 1957 (36 *of* 1957), *s*. 2 *and the First Sch.*

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1. For the Army and Air Force (Disposal of Private Property) Rules, 1953, *see* Gazette of India, 1953, Part II, s. 4.

STATEMENT OF OBJECTS AND REASONS

The Army and Air Force (Disposal of Private Property) Bill is mainly based on the existing provisions in the Army and Air Force Acts. Experience has shown that it is advantageous to have such provisions incorporated in a separate Act and not embodied in the principal Acts as at present. Accordingly provisions relating to the disposal of private property have been incorporated separately in the above mention bill.

2. In preparing the new Bill opportunity has been taken to remove doubts, defects and lacunae that existed in the present Acts and also, as far as possible and practicable, to make the provisions uniform for officers, junior commissioned officers and other ranks as there was some discontent chiefly amongst the junior commissioned officers owing to the differential treatment in the matter disposal of estates under the existing law.

NEW DELHI;
The 1*st February,* 1950.

BALDEV SINGH.

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