

PARLIAMENT OF CEYLON

2nd Session 1957



Servicemen (Collection and Disposal of Specified Property) Act, No. 41 of 1957

Date of Assent : September 6, 1957

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Servicemen (Collection and Disposal of Specified Property) Act, No. 41 of 1957 3

L. D.—O. 42/54.

AN ACT TO PROVIDE FOR THE COLLECTION AND DISPOSAL OF CERTAIN PROPERTY BELONGING TO DECEASED SERVICEMEN AND FOR THE APPLICATION, SUBJECT TO MODIFICATIONS, OF THE PROVISIONS OF THIS ACT RELATING TO SUCH SERVICEMEN TO SERVICEMEN WHO HAVE DESERTED, ABSENTED THEMSELVES OR BECOME OF UNSOUND MIND.

[Date of Assent: September 6, 1957]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Servicemen (Collection and Disposal of Specified Property) Act, No. 41 of 1957.

Short title.

2. On the death of a serviceman a committee (hereinafter referred to as "the committee") consisting of the prescribed number of persons appointed by the prescribed authority shall, as soon as may be and in accordance with regulations made under this Act,—

Committee to take charge of movable property of a deceased serviceman and to pay preferential charges.

(a) take charge and make an inventory of movable property belonging to such serviceman which is in the care, control or custody of the naval, military or air force authorities at the time of his death or which came into such care, control or custody after his death;

(b) collect any money due to such serviceman as salary, batta or other allowance; and

(c) ascertain the amount of, and, subject to the provisions of sections 6 and 7, provide for the payment of, the preferential charges

3. The expenses and debts specified hereunder shall be the preferential charges on the property and money of the deceased serviceman which are referred to in section 2, and shall, except so far as otherwise provided, be payable out of such property and money in preference to all other debts and liabilities, and, as among themselves, in the following order

Preferential charges.

(a) Expenses of the last illness and funeral of such serviceman.

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Preferential charges.

(a) Expenses of the last illness and funeral of such serviceman.

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(b) Sums due by such serviceman in respect of—

- (i) quarters,
- (ii) mess, band and other debts due to military, naval or air force institutions, and
- (iii) military, naval or air force clothing, appointments and equipments.

Ceylon estate of a deceased serviceman.
Cap. 187.

4. The Ceylon estate of a deceased serviceman, for the purpose of the calculation of estate duty payable under the Estate Duty Ordinance, shall be his Ceylon estate within the meaning of that Ordinance less any amount paid as preferential charges under this Act.

Decision of questions as to preferential charges and the amount thereof.

5. Where in the case of any deceased serviceman the committee is unable to determine the question as to what are the preferential charges or the amount payable in respect of such charges, the Permanent Secretary to the Ministry of Defence and External Affairs or such officer as may be authorised by him in that behalf in writing shall decide that question and such decision shall be final.

Payment of preferential charges by other persons.

6. (1) Any person may, within one month after the death of a serviceman or within such further time not exceeding the prescribed time as the committee may allow, pay the preferential charges on such property and money of that serviceman as are referred to in section 2, or secure the payment of those charges to the satisfaction of the committee.

(2) If the payment of the preferential charges on such property and money as are referred to in section (1) is made or secured as provided in that section, the committee shall deliver that property and money to the prescribed person (hereinafter referred to as "the paymaster").

Powers and duties of the committee where preferential charges are not paid or secured.

(1) If within one month after the death of a serviceman or such further time not exceeding the prescribed time as the committee may allow, the preferential charges on such property and money of a deceased serviceman as are referred to in section 2 are not paid or secured to the satisfaction of the committee, the committee shall proceed to pay those charges out of that property and money, and may sell and convert into money such part of that property as does not consist of money for the purpose of paying those charges and any expenses incurred by the committee in effecting the sale and conversion.

(2) For the purpose of the exercise of its powers and the performance of its duties under this Act, the committee shall, to the exclusion of all other authorities and persons, have the same powers and duties as an executor or administrator of the estate of a deceased serviceman would have; and any receipt given by the committee shall have the same effect as if it had been given by such executor or administrator.

(3) The committee shall deliver to the paymaster such part of the property and money of a deceased serviceman as remains in its hands after payment of the charges and expenses referred to in sub-section (1), together with such inventory, accounts, vouchers and information as may be prescribed.

8. Subject to the prescribed provisions and exceptions, the paymaster shall—

Disposal of property and money delivered to paymaster.

(a) where any property and money of a deceased serviceman of not less than two thousand five hundred rupees in value is received by the paymaster from the committee, deliver that property and money to the executor or administrator of the estate of that serviceman to be included in that estate, and

(b) where any property and money of a deceased serviceman of less than two thousand five hundred rupees in value is received by the paymaster from the committee, deliver that property and money to the person in the opinion of the paymaster to be entitled by law thereto.

9. Medals and decorations shall not be considered to be comprised in the movable property referred to in section 2 and shall be taken charge of, and held and disposed of, by the committee according to regulations made under this Act.

Disposal of medals and decorations.

10. Notwithstanding anything to the contrary contained in Chapter XXXVIII of the Civil Procedure Code, any property of a deceased serviceman which is in the custody of the committee or the paymaster under this Act shall be deemed not to be part of the estate of that serviceman for the purpose of the application for, or grant of, probate of the will, or administration of the estate, of that serviceman.

Property in custody of committee not to be property for application for, or grant of, probate or letters of administration.
Cap. 86.

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Application of section 547 of the Civil Procedure Code. Cap. 86.

11. Section 547 of the Civil Procedure Code shall not apply in relation to any property received under this Act by the committee or the paymaster or delivered under this Act by the paymaster to any person.

Validity of payments, sales, &c., under this Act.

12. Every payment, application, sale or other disposition of property made by the committee or the paymaster, when acting in execution or supposed execution of this Act, shall be valid as against all persons whomsoever; and every member of the committee and the paymaster shall be discharged from all liability in respect of any money paid, or any property applied, sold or disposed of, under this Act.

Saving for rights of executor or administrator.

13. After the committee has delivered to the paymaster any property or money of a deceased serviceman, the executor or administrator of the estate of that serviceman shall, in respect of any property or money referred to in section 2 which has not been taken charge of or collected by the committee, have the same rights and duties as if this Act had not been passed.

Application of Act to deserters, &c.

14. Where a serviceman deserts or is absent without leave for twenty-one days, the provisions of this Act shall apply as if such serviceman were dead, subject to the modification that the committee shall dispose of any property and money of that serviceman remaining in its hands after the payment of the preferential charges and expenses referred to in section 7 (1) in the prescribed manner, and that property and money when so disposed of shall be free from all claim on the part of that serviceman or any person claiming through him.

Application of Act to persons of unsound mind.

15. Where a serviceman is ascertained in the prescribed manner to be of unsound mind, the provisions of this Act shall apply as if he had died at the time he was ascertained to be of unsound mind, subject to the prescribed exceptions and the modification that the committee shall dispose of any property and money of that serviceman remaining in its hands after the payment of the preferential charges and expenses referred to in section 7 (1) in the prescribed manner with a view to their being applied to the benefit of that serviceman.

16. (1) The Minister may make regulations--

Regulations.

- (a) in respect of all matters stated in this Act to be prescribed;
- (b) for all matters in respect of which regulations are required or authorised by this Act to be made; and
- (c) for the purpose of carrying out the provisions or giving effect to the principles of this Act.

(2) No regulation shall have effect until that regulation has been approved by the Senate and the House of Representatives and notification of such approval is published in the *Gazette*.

17. In this Act, "serviceman" means—

Interpretation.

- (a) any person who, under the Army Act, No. 17 of 1949, is subject to military law, or
- (b) any person who, under the Navy Act, No. 34 of 1950, is subject to naval law, or
- (c) any person subject to the Air Force Act, No. 41 of 1949.

18. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and in case of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

Act to prevail in case of conflict with other written law.