

## ACT NO. XII OF 1915.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN  
COUNCIL.

(Received the assent of the Governor General on  
the 22nd September, 1915.)

An Act to provide for the special protection  
in respect of civil and revenue litigation of  
Indian soldiers serving under war condi-  
tions.

WHEREAS it is expedient to provide for the spe-  
cial protection in respect of civil and revenue  
litigation of Indian soldiers serving under war condi-  
tions ; It is hereby enacted as follows :—

Short title  
and extent.

1. (1) This Act may be called the Indian Soldiers  
(Litigation) Act, 1915.

(2) It extends to the whole of British India, inclu-  
ding British Baluchistan.

Definitions.

2. In this Act,—  
“Indian soldier” means any person subject to the  
Indian Army Act, 1911 ;

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“prescribed” means prescribed by rules made  
under this Act ;

“proceeding” includes suit and appeal ; and

“serving under war conditions” means—

(1) during the continuance of the present  
war and for six months thereafter, serv-  
ing out of India or serving in India  
when such service has been declared,  
by notification of the Governor General  
in Council in the Gazette of India, to be  
service under war conditions ; and

(2) after

(2) after the expiration of that period, serving in any place when such service has been declared, by notification of the Governor General in Council in the Gazette of India, to be service under war conditions.

3. If any person presenting any plaint, application or appeal to any Civil or Revenue Court has reason to believe that any adverse party is an Indian soldier who is serving under war conditions, he shall state the fact in his plaint, application or appeal.

Particulars to be furnished in plaints, applications or appeals to Civil or Revenue Court.

4. If any Civil or Revenue Court has reason to believe that any party to any proceeding pending before such Court is an Indian soldier who is serving under war conditions, and that such soldier is not represented in the proceeding by any person duly authorized to appear, plead, or act on his behalf, such Court shall give notice thereof in the prescribed manner to the prescribed authority.

Notice to be given in case of unrepresented Indian soldier.

5. On receipt of a notice under section 4, the prescribed authority may, if it is of opinion that a postponement of the proceeding as against such soldier is necessary in the interests of justice, certify the fact in the prescribed manner to the Court in which the proceeding is pending, and thereupon such Court shall postpone the proceeding as against such soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

Postponement of proceedings.

6. If, after the issue of a notice under section 4, the prescribed authority either certifies that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months, or in any other case, within three months from the date of the issue of the notice under section 4, that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

Court may proceed when no certificate received within certain period.

7. If the Collector has reason to believe that any Indian soldier who ordinarily resides, or who has property,

Power of Collector to intervene suo motu.

property, in his district and is serving under war conditions, is a party to any proceeding pending before any Civil or Revenue Court, and that such soldier is not represented in such proceeding by any person duly authorized to appear, plead, and act in his behalf, the Collector may, if he is of opinion that a postponement of the proceeding as against such soldier is necessary in the interests of justice, certify the fact in the prescribed manner to such Court, and if the Court is satisfied that such Indian soldier is not so represented, the Court shall postpone the proceeding as against such soldier in the manner provided in section 5.

Power to set aside decrees and orders passed against an Indian soldier serving under war conditions.

8. (1) In any proceeding before a Civil or Revenue Court in which a decree or order has been passed against any Indian soldier whilst such soldier was serving under war conditions, such soldier may apply to the Court which passed the same for an order to set it aside; and if he satisfies the Court that default after the 5th of May, 1915, has been made in complying with the provisions of section 3 or 4, the Court shall, or, in any other case if the interests of justice require such a course the Court, subject to such conditions (if any) as it thinks fit to impose, may make an order setting aside the decree or order as against such soldier:

Provided, firstly, that any such application is made within three months from the date on which such soldier ceased to serve under war conditions; secondly, that no decree or order shall be set aside on any such application unless notice thereof has been served on the opposite party; and thirdly, that when the decree or order is of such a nature that it cannot be set aside as against such soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(2) The provisions of section 5 of the Indian Limitation Act, 1908, shall apply to applications under this section.

(3) Where

(3) Where an order is made in the exercise of the power conferred by sub-section (1), the Court shall continue the proceeding.

9. If any Civil or Revenue Court is in doubt whether any Indian soldier is or was at any particular time serving under war conditions, such Court may refer the point for the decision of the prescribed authority, and the certificate of such authority shall be conclusive evidence on the point.

Power of Civil or Revenue Court to refer question of whether service was under war conditions or not.

10. The Local Government, after consulting the High Court, may, by notification in the local official gazette, make rules—

Rule-making power.

(a) prescribing the manner and form in which any notice or certificate under this Act shall be given, and the authorities to whom such notices shall be given, and by whom the powers under this Act shall be exercised;

(b) prescribing the period for which proceedings or any class of proceeding shall be suspended under this Act, and

(c) generally providing for any matters incidental to the purposes of this Act.

IX of 1908. 11. In computing the period of limitation prescribed by the Indian Limitation Act, 1908, or any other law for the time being in force for any suit, appeal or application to any Civil or Revenue Court in which the plaintiff, appellant or applicant is an Indian soldier, the time during which such soldier has been serving under war conditions, since the 4th of August, 1914, shall be excluded.

Modification of law of limitation in the case of Indian soldiers serving under war conditions.

12. The Governor General in Council may, by notification in the Gazette of India, direct that all or any of the provisions of this Act shall apply to any other class of persons in the service of His Majesty specified in such notification in the same manner as they apply to Indian soldiers, and, upon such notification, such provision shall apply accordingly.

Power to apply the provisions of this Act to other persons in the service of the Crown.

13. The Indian Soldiers (Litigation) Ordinance, 1915, is hereby repealed.

Repeal of Ordinance No. II of 1915.