MINISTRY OF DEFENCE

New Delhi, the 9th May, 2005

S.R.O.33.- In exercise of the powers conferred by sub-section(1) read with clauses (a), (h), (i), (j) and (k) of sub-section (2) of Section 123 of the Coast Guard Act, 1978 (30 of 1978), the Central government hereby makes the following rules to amend the Coast Guard (Discipline) Rules, 1983, namely :-

1. (1) These rules may be called the Coast Guard Discipline (Amendment) Rules, 2005.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Coast Guard (Discipline) Rules, 1983, (hereinafter referred to as the principal rules), in rule 2, after clause (d), following clauses shall be inserted, namely :-

(da) "District Commander" means the /District Commander appointed by the Director-General.

(db) "Enrolled Follower" means a person so enrolled in the Coast Guard.

(dc) "Executive Officer" means an officer specified under Section 57 of the Act.

(dd) "Regional Commander" means the :-

(i) Commander Coast Guard Region, West;
(ii) Commander Coast Guard Region, East; and
(iii) Commander Coast Guard Region, Andaman and Nicobar Islands

3. For rule 4 of the principal rules, the following rule shall be substituted, namely :-

4.Forms in appendices – (1) The Forms set forth in the appendices to these rules, with such variations as the circumstances of each case may require, may be used for the respective purposes therein mentioned, and if used, shall be sufficient, but a deviation from such forms shall not, by reason only of such deviation, render invalid any charge, order, proceedings or any other document relevant to these rules.

(2) Any omission of any such form shall not be reason only of such omission render as acts of things invalid.

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4. For rule 14 of the principal rules, the following rule shall be substituted, namely :-

"14. Delay Reports – (1) Where a person subject to the Act is being detained in Coast Guard custody for a period beyond forty-eight hours without issuing orders for convening a Coast Guard Court for his trial or awarding him punishment under section 57 or section 57A, the report as required under section 60 for such delay, shall be submitted by the Commanding Officer to the District Commander or the Regional Commander, as the case may be, in the form set out in Appendix I.

(2) The report under sub-rule(1) shall continue to be submitted at an interval of every eighth day until the Coast Guard Court is ordered to assemble or punishment under section 57 or section 57A is awarded or, such person is released from the Coast Guard custody.

(3) A copy of every such delay report shall, on or after the forty-eight day of such custody, be also sent by the Commanding Officer directly to the Chief Law Officer and to the regional Commander of the Region in which such person is held in custody.

(4) Where the period of custody exceeds two months, the sanction of the Director General shall be required, who may grant such sanction from time to time, for such period as he may deem necessary but not exceeding a total period of three months.

(5) Where the period of custody referred to in sub-rule (1) exceeds three months, the sanction of the Central Government shall be required".

5. After rule 15 of the principal rules, the following rule shall be inserted, namely :-

15A. Suspension – (1)Notwithstanding anything contained in these rules, the appointing authority may as its discretion, place a person subject to the Act, under suspension:-

(i) Where a disciplinary action under the Act against him is contemplated or is pending or

(ii) Where in the opinion of such authority, he has engaged himself in activities prejudicial to theinterest or the security of the state.

Provided that the Director-General may exercise the power of suspension in respect of personnel upto the rank of Commandant (Junior Grade) :

Provided further that the Director-General shall report the facts of each case of suspension under the first proviso immediately to the Central Government and all such

orders of suspension shall not be valid unless confirmed by the Central Government within a period of one month from the date of the said order.

(2) A person subject to the Act shall be deemed to have been placed under suspension by an order of the appointing authority :-

(i) with effect from the date of his detention where his detention by the civil police on a criminal charge or otherwise exceeds a period of twenty-four hours ;

or

(ii) with effect from the date of his conviction if he is convicted by any court on a criminal charge and awarded a sentence of imprisonment for a exceeding forty-eight hours.

(3) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the competent authority.

(4) An order of suspension made or deemed to have been made under this rule may, at any time, be modified or revoked by the authority, which made the order or by any authority to which that authority is subordinate.

(5) When a person remains under suspension for more than ninety days, a report, giving reasons for delay in the finalization of his case, shall be submitted to the Director General by the Commanding Officer of the accused, and thereafter, subsequent reports shall be submitted every month till the case is finalised or the order of suspension is revoked, whichever is earlier.",

6. In rule 16 of principal rules, -

(a) in sub-rule(1), in clause (b) for the words "to claim for" the word, figure and letter "to claim as per Appendix IIA" shall be substituted.

(b) in sub-rule(2), in clause (a) the words "active", occurring at both the places, shall be omitted:

7. For rule 20 of the principal rules, the following rule shall be substituted, namely :-

"20. Hearing of charge – (1) Every charge against a person subject to the Act shall be heard by the Commanding Officer in the presence of the accused, who shall have full liberty to cross examine any witness against him, and to call such Witness and make such statement as may be necessary for his defence:

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Provided that where the charge against the accused arises as a result of investigation by a Board of Inquiry convened under rule 36 of the Coast Guard (General) Rules, 1986 and where the provisions of sub-rule (4) of rule 39 of the principal rules have been complied with, the Commanding Officer may dispense with the above procedure.

(2) The Commanding Officer shall dismiss a charge brought before him, if, in his opinion, the evidence does not show that an offence under the Act has been committed, or if he is satisfied that the charge ought not to be proceeded with :

(3) after compliance of sub-rule(1), if the Commanding Officer is of opinion that the charge ought to be proceeded with, he shall, within a reasonable time, -

(a) award any of the punishment which he is empowered to award; or

(b) remand the accused for preparing a record of evidence or an abstract of evidence against him.

Provided that where the Commanding Officer proposes to award any of the punishments under section 57 of the Act, which required approval, he shall prepare a Record of Evidence or an Abstract of Evidence and forward it alongwith the Punishment Approval Form set out in Appendix III B".

8. In rule 21 of the principal rules, in clause (c), for the words "personally interested in the case and", the words "personal interested in the case" shall be substituted;

9. In rule 24 of the principal rules, in sub-rule(3), for the word, brackets and figure "sub-rule(3)", the word brackets and figure "sub-rule(4)" shall be substituted;

10. In rule 28 of the principal rules, -

(a) in clasue (b), for the words, brackets and letters "specified in clauses (a), (c) and (d)" the words, brackets and letters "specified in clauses (c) and (d)" shall be substituted;

(b) after clause (i), the following clauses shall be inerted, namely :-

"(g) the date of Punishment Approval Form and the date of reading the Punishment Approval Form shall always be the same and where there is an unreasonable interval between the dates of commission of the offence and the reading of Punishment Approval Form, the reason for such interval shall be stated in the Punishment Approval Form;

(c) after clause (i), the following clauses shall be inserted, namely :-

"(j) The punishment of imprisonment or detention if not suspended, shall commence on the day on which the Punishment Approval Form is formally read over to the offender;

Provided that where the offender has been kept in custody from the date on which the authority who tried him signed the Punishment Approval form, the sentence shall begin to run from the date;

(k) the other punishments shall take effect on the date on which the Punishment Approval Form is formally read over to the offender.

(l) Notwithstanding that the state of health of the offender is such as renders him unable to undergo the whole or any part of the punishment to which he may have rendered himself liable and it appears probable that he will be invalidated from the service or remains unfit for punishment for a considerable period of time, the punishment meted out for his offence shall be awarded and if it requires a Punishment Approval Form, it is to be completed and duly signed and read over, where necessary, in the absence of the offender in order that he may not escape the consequences of the other punishments such as loss of pay stoppage of leave, etc";

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11. In rule 29 of the principal rules, for clause (b), the following clause shall be substituted, namely :-

"(b) below the rank in which he joined the Coast Guard";

12. In rule 31 of the principal rules, in clause (g) –

(i) for the words, brackets and figure "in accordance with sub-rule(1)", the words, brackets and letter "in accordance with rub-rule(f)" shall be substituted;

(ii) for the words, "for such a day's absence", the words "or each day's absence" shall be substituted;

13. in rule 32 of the principal rules, -

(i) in sub-rule(1), for the words "washing allowance", the words "composite personal maintenance hygiene allowance", shall be substituted;

(ii) after sub-rule(2), the following sub-rule shall be inserted, namely :-

"(3) Where mulcts of pay and allowances are awarded for absence without leave, the period shall be treated as regularized for all purposes",

14. In rule 41 of the principal rules, for the words “Uttam Yantriks”, the words “Yantriks”, shall be substituted,

15. In rule 42 of the principal rules, in the opining portion for the words “Navik, Yantrik and enrolled persons”, the words “Naviks and Enrolled Followers”, shall be substituted.

16. In rule 43 of the principal rules, for sub-rule (3), the following sub-rule shall be substituted, namely ;

“(3) While under stoppage of leave, a person shall not be allowed to leave the ship or station except on duty, he may, however, be allowed to proceed on leave at the discretion of the Commanding Officer”

17. After rule 44 of the principal the following rules shall be inserted namely:-

“44A. Punishment of officers below the rank of Commandant. – (1) Where an officer below the rank of Commandant is remanded for disposal of a charge against him by an authority empowered to deal summarily under section 57A, the copies of record of evidence and the charge sheet shall be delivered to him as soon as practicable, but in any case not less than twenty-four hours before the summary trial.

(2) The authority empowered under section 57A shall, unless the charge is dismissed or the accused consents to in writing to dispense with the attendance of witnesses, hear the evidence in his presence and he shall have full liberty to cross-examine any witness against him, and to make statement and examine witnesses in his defence.

(3) The trial proceedings shall, as far as practicable, be recorded in accordance with the form set out in Appendix IV A. In every case where the trial is conducted by an authority other than the Director General, the proceedings together with the conduct sheet, record of evidence and written consent of the accused to dispense with the attendance of witnesses (if any), shall be forwarded to the Director General”.

18. After rule 50 of the principal rules, the following rule shall be inserted, namely :-

“50A. Arranging attendance of witness. – (1) In case of trial by a Coast Guard Court, the Commanding Officer of the accused, Convening authority or, after assembly of the court, the Presiding Officer of the Court or the Law Officer appointed for the trial as the case may be, shall take proper steps for arranging attendance of a witness whom the accused or the Prosecutor wishes to call and whose attendance can reasonably be arranged;

Provided that the person requesting such attendance may be required to defray the cost, if any.

(2) The appropriate Coast Guard authority shall order the attendance of a witness subject to the Act without issuance of formal summons.

(3) The attendance of persons belonging to Army, Navy or Air Force shall be arranged through appropriate authorities in accordance with any law for the time being in force";

19. In rule 52 of the principal rules, for clause (d), the following clause shall be substituted, namely :-

"(d) is the Commanding Officer of the accused, or the Commanding Officer of the Ship to which the accused belonged at the time of commission of the alleged offence or";

20. In rule 53 of the principal rules, sub-rules (5) and (6) shall be omitted;

21. In rule 54 of the principal rules, clause (h) shall be omitted;

22. I rule 84 of the principal rules, I sub-rule (1), for clauses (g) ad (h), the following clauses shall be substituted, namely :-

"(g) the Captain's night order book'

(h) the Navigating Officer's note book and work book;

(i) the engine room log book;

(j) the Officer of the Watch work book;

(k) the echo sounder log book;

(l) the Navigating Yeoman's note book;

(m) the Navigating Officer's night order,

(n) the Navigating Officer's sight forms; and

(o) the wheel and engine order book";

23. In rule 90 of the principal rules, in sub-rule(2), the following proviso shall be inserted, namely:-

"Provided that where any question of law is raised by the accused, the prosecutor may, with the permission of the court, make additional address";

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24. In rule 93 of the principal rules, after sub-rule(1), the following sub-rule shall be inserted, namely:-

"(1A) The reasons for finding of `Guilty" or of 'Not Guilty", including cases where the court accepts the defence submission of `no case' to answer on charges under sections 27 and 28, shall be recorded;

25. In rule 95 of the principal rules, for sub-rule (2), the following sub-rule shall be substituted, namely:-

"(2) Evidence under sub-rule(1) may be given by a witness producing a document containing information as set out in Appendix VIIA and identifying the accused as the person referred to in that document";

26. In rule 102 of the principal rules, after sub-rule(4), the following sub-rule shall be inserted, namely :-

"(5) On all working days a Coast Guard Court may sit at such times and for such period between sunrise and sunset for reasonable hours to conduct the proceedings";

Provided that in cases where the court or the convening authority thinks that the service exigencies or the interest of discipline so require, the court may also sit on Sundays or gazette holidays as deemed necessary";

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27. In rule110 of the principal rules, in sub-rule(4), for clause (a), the following clause shall be substituted, namely :-

"(a) the court shall, in every case, make such record of the defence made by the accused as will enable the reviewing authority to judge the reply made by, or on behalf of, the accused to each charge against him, and "'

28. In rule 117 of the principal rules, for sub-rules (3) and (4), the following sub-rules shall be substituted, namely:-

"(3) During any trial by Coast Guard Court, it is the duty of the Law Officer to decide all questions of law, including questions as to the relevancy of facts and admissibility of oral and documentary evidence.

(4) Whenever during trial, it appears to the Law Officer that any argument as to the admissibility of the evidence or on application for separate trials or on any other question of law, should not be heard in the presence of the court, he may advise the Presiding Officer of the court accordingly and the Presiding Officer shall thereupon, make an order for the court to retire and thereafter, the Law Officer shall hear the arguments and give his opinion.

(5) Where any opinion has been given by the Law Officer to the court on any matter before it, it may be recorded in the proceedings.

(6) In the discharge of his duties, the Law Officer shall maintain a strict impartial position".

29. In rule 119 of the principal rules, for the words "confirming authority" the words "convening authority" shall be substituted.

30. Rule 120 of the principal rules shall be numbered as sub-rule(I) thereof and –

(a) in sub-rule(I) as so re-numbered, for the words "The proceedings of every Court", the words "The proceedings of every Coast Guard Court", shall be substituted;

(b) after sub-rule (I) as so re-numbered, the following sub-rule shall be inserted, namely:-

"(2) The proceedings of every summary trial shall, after promulgation, be forwarded to the Officer-in-Charge, Bureau of Naviks, who shall preserve these proceedings for a period not less than seven years"';

31. For Appendix I, the following Appendix shall be substituted, namely:-

"APPENDIX I

(See rule 14)

Form of Delay Report

No._____

CGS_____

Date_____

To

_____

_____

1. Rank_____ Name_____ No._____

2. Offence _____

3. Date of Offence _____

4. Date offence was discovered _____

5. Date of (open/close) arrest _____

6. Date of release from open arrest/release without prejudice to re-arrest (if not released, reasons) _____

7. Record of evidence made on _____

(if not recorded, reasons)

8. Application for trial made on _____

9. Date due to be tried _____

10. Reasons for delay _____

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(Commanding Officer)

Copy to :

1. Commander, Coast Guard Region _____

2. Chief Law Officer, Coast Guard Headquarters",

32. After Appendix II, the following Appendix shall be substituted, namely :-

"APPENDIX IIA

[See rule 16(1) (b)]

Form for claiming offender for trial under the Coast Guard Act, 1978

To

_____

_____

Sir,

Whereas I have been informed that a criminal case under Section _____ has been instituted in your Court against _____ (a) _____ of the Coast Guard _____ (b) _____. The said (Name

& Rank) is at present serving under my command and is liable to be tried under the Coast Guard Act, 1978, for the said offence.

In exercise of powers vested in me under Section 71 of the Coast Guard Act, 1978, I have decided that the said (Name & Rank) shall be tried under the Coast Guard Act, 1978.

Yours faithfully

_____

Director General/Inspector General/
Deputy Inspector General/Commanding Officer

(a) Name of the accused

(b) Unit of the accused",

33. After Appendix IV, the following Appendix shall be substituted, namely:-

"APPENDIX IV-A

(See rule 44A)

Form – I

Form for use at summary trials of officers below the rank of Commandant under Section 57A.

(where the authority dealing summarily with the case decides with the written consent of the accused to dispense with me attendance of the witnesses)

Rank, Name & Number of the accused : _____

Ship/Establishment : _____

Question to be accused:

1. Have you received a copy of the charge-sheet and record of evidence?
   ANSWER
2. Have you had sufficient time to prepare you defence?
   ANSWER

The charge-sheet is read over to the accused.

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3. Are you guilty or not of the charge(s) against you which have just been read over to you?
   ANSWER
   The record of evidence is read over or the authority dealing summarily with the case informs the accused that he has already perused it.
4. Do you wish to make a statement?
   ANSWER
   (If the accused desired to make a statement, he should do so now)

If at the conclusion of the hearing the authority dealing summarily with the case considers that the charge should be dismissed, he is to examine the accused's record of service.

If the authority dealing summarily with the case proposes to award a punishment other than mullets of pay and allowances of serverreprimand, he shall put the following question to the accused:-

5. Do you elect to tried by a Coast Guard Court or will you accept my award?

   ANSWER

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FINDING : _____

AWARD : _____

SHIP/ESTABLISHMENTS : _____

DATE : _____

Signature

Form-II

Form for use of summary trials of officers below the rank of Commandant under section 57A

(when the authority dealing summarily with the case does not decides to dispense with the attendance of the witnesses or when the accused required the attendance)

Rank, Name & Number of the accused : _____

Ship/Establishment : _____

Question to be accused:

1. Have you received a copy of the charge-sheet and record of evidence?

ANSWER

2. Have you had sufficient time to prepare you defence?
   ANSWER

The charge-sheet is read.

3. Are you guilty or not of the charge(s) against you which have just been read over to you?
   ANSWER
   The witnesses give their evidence, accused be permitted to cross-examine. .
4. Do you wish to make a statement?
   ANSWER
   If the accused desired to make a statement, he should do so now
5. Do you desire to call any witnesses?
   ANSWER

   The accused makes his statement and his witnesses give evidence.

If at the conclusion of the hearing the authority dealing summarily with the case considers that the charge should not be dismissed, he is to examine the accused's record of service.

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If the authority dealing summarily with the case proposes to award a punishment other than mullets of pay and allowances or service reprimand, he shall put the following question to the accused :-

6. Do you elect to be tried by a Coast Guard Court or will you accept my award?
   ANSWER

FINDING : _____

AWARD : _____

SHIP/ESTABLISHMENTS : _____

DATE : _____

Signature

34. After Appendix VII A, the following Appendix shall be substituted, namely:-

"APPENDIX VII-A

[See rule 95(2)]

STATEMENT TO CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

Rank, Name and Number _____ of the Coast Guard Station _____

1. The following is a fair and true summary of the entries in the service book of the accused, exclusive of convictions by a Coast Guard Court or a criminal court and of summary awards under section 57 or 57A of the Coast Guard Act, 1978.

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Within last 12 months	Since joining service	
For(a) _____ times	_____ __times	(a) Insert the statement of offence and the relevant Sectionof theCoast GuardAct, 1978
For _____ times	_____times	
For _____times	_____times	

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the service book of the accused.

2. Irrespective of this trial the accused's general character* is ___. *The character

3. The present age of the accused according to his (record of service/enrolment papers) is _____. assessment of the enrolled

4. The date of his appointment/enrolment specified in his (record of service/enrolment papers) is _____. persons will be recorded in

5. (In the case of an officer) The accused hold the substantive rank of ____ since _____ and acting rank of _____ since_____. terms of rule 19 of the

6. The accused after joining Coast Guard has served continuously till present date:-- Coast Guard (Condition of of Service)

In the rank of _____ for _____ years since_____ Rules, 1986

In the rank of _____ for _____ years since_____

In the rank of _____ for _____ years since_____

7. The accused is entitled to reckon _____ years service for the purpose of determining his person of gratuity.

8. The accused is in possession of the following decorations and rewards _____.

9. The accused has been in custody awaiting trial on the present charge(s) for _____ day in civil custody and _____ days in Coast Guard custody, making a total of _____ days of which _____ days were spent in hospital.

10. There are o previous convictions against the accused.

or

The previous convictions of the accused by a Coast Guard Court and summary awards under sections 57 or 57A of the Coast Guard Act, 1978, are set out in the Schedule annexed to this Statement.

SCHEDULE OF CONVICTIONS BY A COAST GUARD COURT OR CRIMINAL COURT AND OF SUMMARY AWARDS UNDER SECTIONS 57 OR 57A OF THE COAST GUARD ACT, 1978

The accused Rank_____ Name _____ No._____ of Coast Guard Ship/Establishment _____.

Note :- Verbatim extract from the service book stating these convictions must be inserted

Description of Court/ authority awarding punishments summarily	Place and date of trial/summary award	Charge(s) of which convicted	Sentence/ Summary award	Remarks

I hereby certify that the foregoing schedule of convictions is a true extract from the service records in my custody.

Station_____ _____

Date_____20 Commanding Officer

[File No.LW/0155/661/US(P)/D(N-II)]
G.S. AUDHKHASI, Under Secy,(Pers)/D(Navy-II)

Note : In the Coast Guard(Discipline) Rules, 1983 published in the Gazette of India vide S.R.O. 46E dated 19th May 1983 in Part II, Section 4 of the Gazette of India and these rules have not been amended so far.

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