

IndiaCode

The Navy Act, 1957

(ACT NO. 62 OF 1957)

[*As on the* 1*st June,* 2026]

LIST OF AMENDING ACTS

1. The Army, Air Force and Naval Law (Amendment) Act, 1970 (30 of 1970).
2. The Navy (Amendment) Act, 1994 (53 of 1974).
3. The Navy (Amendment) Act, 1982 (48 of 1982).
4. The Navy (Amendment) Act, 1987 (34 of 1987).
5. The Navy (Amendment) Act, 2005 (23 of 2005).

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 NAVY ACT, 1957

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THE NAVY ACT, 1957

ACT NO. 62 OF 1957

[27*th December,* 1957.]

An Act to consolidate and amend the law relating to the Government of the Indian Navy.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(*1*) This Act may be called the Navy Act, 1957.

(*2*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

2. Persons subject to naval law.—(*1*) The following persons shall be subject to naval law wherever they may be, namely:—

(*a*) every person belonging to the Indian Navy during the time that he is liable for service under this Act;

(*b*) every person belonging to the Indian Naval Reserve Forces when he is—

(*i*) on active service; or

(*ii*) in or on any property of the naval service including naval establishments, ships and other vessels, aircraft, vehicles and armouries; or

(*iii*) called up for training or undergoing training in pursuance of regulations made under this Act, until he is duly released from his training; or

(*iv*) called up into actual service in the Indian Navy in pursuance of regulations made under this Act, until he is duly released therefrom; or

(*v*) in uniform;

(*c*) members of the regular Army and the Air Force when embarked on board any ship or aircraft of the Indian Navy, to such extent and subject to such conditions as may be prescribed;

(*d*) every person not otherwise subject to naval law, who enters into an engagement with the Central Government under section 6;

(*e*) every person belonging to any auxiliary forces raised under this Act, to such extent and subject to such conditions as may be prescribed; and

(*f*) every person who, although he would not otherwise be subject to naval law, is by any other Act or during active service by regulations made under this Act in this behalf made subject to naval law, to such extent and subject to such conditions as may be prescribed.

(*2*) The following persons shall be deemed to be persons subject to naval law, namely:—

(*a*) every person ordered to be received, or being a passenger, on board any ship or aircraft of the Indian Navy, to such extent and subject to such conditions as may be prescribed;

(*b*) every person sentenced under this Act to imprisonment or detention, during the term of his sentence, notwithstanding that he is discharged or dismissed with or without disgrace from naval service or would otherwise but for this provision cease to be subject to naval law.

1. 1st January, 1958, *vide* notifn. S.R.O. 11(E), dated 31st December, 1957, *see* Gazette of India, Extraordinary, 1958, Part II, s. 4(*ii*) and Goa, Daman and Diu by Reg. 11 of 1963, s. 3 and Sch. (w.e.f. 1-2-1965).

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

(*1*) "active service" means service or duty—

(*a*) during the period of operation of a Proclamation of Emergency issued under clause (*1*) of article 352 of the Constitution; or

(*b*) during any period declared by the Central Government by notification in the Official Gazette as a period of active service with reference to any area in which any person or class of persons subject to naval law may be serving;

(*2*) "Chief of the Naval Staff means the flag officer appointed by the President as Chief of the Naval Staff or in his absence on leave or otherwise an officer appointed by the Central Government to officiate as such or in the absence of such officiating appointment the officer on whom the command devolves in accordance with regulations made under this Act;

(*3*) "civil offence" means an offence triable by a Court of ordinary criminal jurisdiction in India;

(*4*) "civil prison" means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894 (9 of 1894), or under any other law for the time being in force;

(*5*) "commissioned officer" means a person holding a commission from the President in Indian Navy or the Indian Naval Reserve Forces;

(*6*) "Court-martial" means a Court-martial constituted under this Act;

(*7*) "enemy" includes all armed rebels, armed mutineers, armed rioters and pirates and any person in arms against whom it is the duty of any person subject to naval law to act;

(*8*) "flag officer" means an officer of the rank of Admiral of the Fleet, Admiral, Vice-Admiral or Rear-Admiral;

(*9*) "Indian Naval Reserve Forces" means the naval reserve forces raised and maintained by the Central Government;

(*10*) "Indian Navy" means the regular naval forces raised and maintained by the Central Government;

(*11*) "Indian waters", for the purposes of sections 31, 97 and 99, means the seas extending from the shores of India to such limits as may be prescribed;

(*12*) "naval custody" means the arrest or confinement of a person in the prescribed manner or in accordance with the usages of the naval service, and includes military or air force custody;

[1][(*12A*) "naval establishment" means an establishment belonging to, or under the control of, the Indian Navy whether within or without India;]

(*13*) "naval offence" means any of the offences under sections 34 to 76;

(*14*) "naval service" means the naval organisation of India;

(*15*) "naval tribunal" means a Court-martial constituted under section 97 and includes a disciplinary Court constituted under section 96, a commanding officer or other officer or authority exercising powers of punishment under this Act;

[2][(*16*) "Officer" means a commissioned officer and includes—

(*a*) a subordinate officer other than a petty officer;

(*b*) a commissioned officer re-employed as such;]

[3][(*17*) "petty officer" means a sailor rated as such and includes a chief petty officer and a master chief petty officer;]

1. Ins. by Act 53 of 1974, s. 3 (w.e.f. 16-12-1974).
2. Subs. by Act 23 of 2005, s. 2. for clause (*16*) (w.e.f. 23-6-2005).
3. Subs. by Act 53 of 1974, s. 3, for clause (*17*) (w.e.f. 16-12-1974).

(*18*) "prescribed" means prescribed by regulations made under this Act;

(*19*) "provost-marshal" means a person appointed as such under section 89 and includes any of his deputies or assistants or any other person lawfully exercising authority under him or on his behalf;

(*20*) [1]["sailor"] means a person in the naval service other than an officer;

(*21*) "ship", except in the expression "on board a ship", includes an establishment of the Indian Navy commissioned as a ship in accordance with the custom of the navy;

(*22*) "subject to naval law" means liable to be arrested and tried under this Act for any offence;

(*23*) "subordinate officer" means a person appointed as an acting sub-lieutenant, a midshipman or a cadet in any branch of the Indian Navy or the Indian Naval Reserve Forces, but does not include a cadet whilst under training in a joint service institution;

(*24*) "superior officer", when used in relation to a person subject to naval law, means any officer or petty officer who is senior to that person under regulations made under this Act and any officer or petty officer, who though not so senior to that person, is entitled under this Act or the regulations made thereunder to give a command to that person, and includes, when such person is serving under prescribed conditions, an officer, junior commissioned officer, warrant officer, noncommissioned officer of the regular Army or the Air Force of higher relative rank to that person or entitled under this Act or the regulations made thereunder to give a command to that person;

(*25*) all words and expressions used but not defined in this Act but defined in the Indian Penal Code (45 of 1860), shall have the meanings respectively assigned to them in that Code.

4. Fundamental rights to apply to persons subject to naval law with modifications.—The rights conferred by Part III of the Constitution in their application to persons subject to naval law shall be restricted or abrogated to the extent provided in this Act.

CHAPTER II

THE NAVAL FORCES

5. Power of Central Government to raise and maintain naval forces.—The Central Government may raise and maintain a regular naval force and also reserve and auxiliary naval forces.

CHAPTER III

SPECIAL PROVISIONS RELATING TO DISCIPLINE IN CERTAIN CASES

6. Provision respecting discipline of persons under engagement to serve Central Government.—(*1*) If any person not otherwise subject to naval law enters into an engagement with the Central Government to serve,—

(*a*) in a particular ship; or

(*b*) in such particular ship or in such ships as the Central Government, the Chief of the Naval Staff, or the prescribed officer may, from time to time, determine;

and agrees to become subject to naval law upon entering into the engagement, that person shall, so long as the engagement remains in force and notwithstanding that for the time being he may not be serving in any ship, be subject to naval law.

(*2*) The Central Government may, by order, direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Chief of the Naval Staff, persons of any such class as may be specified in the order shall, while being subject to naval law by virtue of this section, be deemed to be

1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-1974).

officers, petty officers or other [1][sailors], as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified.

7. Relations between the members of the Navy, Army and Air Force acting together.—(*1*) When members of the regular Army and the Air Force or of either of these forces are serving with members of the Indian Navy or Indian Naval Reserve Forces under prescribed conditions, then those members of the regular Army or the Air Force shall exercise such command, if any, and be subject to such discipline as may be prescribed.

(*2*) Nothing in sub-section (*1*) shall be deemed to authorise the exercise of powers of punishment by members of the regular Army or the Air Force over members of the Indian Navy or the Indian Naval Reserve Forces, except as provided in clause (*e*) of sub-section (*3*) of section 93 [1][or in such cases and subject to such conditions as may be prescribed].

8. Provision respecting discipline of master of merchant vessel under convoy.—(*1*) Every master or other person for the time being in command of any merchant or other vessel comprised in a convoy under the command of an officer of the Indian Navy shall obey, in all matters relating to the navigation or security of the convoy, any directions which may be given by such officer, and shall take such precautions for avoiding the enemy as may be required by any such directions.

(*2*) If any such directions are not obeyed, any such officer or any person acting under his orders may compel obedience by force of arms without being liable for any injury or loss of life or any danger to or loss of property resulting therefrom.

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CHAPTER IV

COMMISSIONS, APPOINTMENTS AND ENROLMENTS

9. Eligibility for appointment or enrolment.—(*1*) No person who is not a citizen of India shall be eligible for appointment or enrolment in the Indian Navy or the Indian Naval Reserve Forces except with the consent of the Central Government.

Provided that nothing in this section shall render a person ineligible for appointment or enrolment in the Indian Navy or the Indian Naval Reserve Forces on the ground that he is a subject of Nepal.

(*2*) No woman shall be eligible for appointment or enrolment in the Indian Navy or the Indian Naval Reserve Forces except in such department, branch or other body forming part thereof or attached thereto and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf.

10. Commissions and appointments.—(*1*) Officers other than subordinate officers shall be appointed by commission granted by the President.

(*2*) The grant of the commission shall be notified in the Official Gazette and such notification shall be conclusive proof of the grant of such commission.

(*3*) Subordinate officers shall be appointed in such manner and shall hold such rank as may be prescribed.

11. Enrolment.—(*1*) Save as otherwise provided in this Act, the terms and conditions of service of [2][sailors], the person authorised to enrol for service as [2][sailors] and the manner and procedure of such enrolment shall be such as may be prescribed.

(*2*) No person shall be enrolled as a [2][sailor] in the Indian Navy for a period exceeding [3][twenty years] in the first instance:

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1. Ins by Act 53 of 1974, s. 4 (w.e.f. 16-12-1974).
2. Subs. by s. 2, *ibid.,* for "seaman" (w.e.f. 16-12-1974).
3. Subs. by Act 34 of 1987, s. 2, for "fifteen years" (w.e.f. 9-9-1987).

Provided that in the case of a minor the said period of [1][twenty years] shall be reckoned from the date on which he attains the age of seventeen.

(*3*) Notwithstanding anything contained in any other law for the time being in force,—

(*a*) the enrolment of any person under this Act shall be binding on him both during his minority and after he attains majority;

(*b*) neither the parent or guardian of a minor duly enrolled under this Act nor any other person shall be entitled to claim custody of the said minor as against the Central Government or any of its officers or other persons set over him.

12. Validity of enrolment.—Where a person after his enrolment has for a period of three months from the date of such enrolment been in receipt of pay as a [2][sailor], he shall be deemed to have been duly enrolled and shall not thereafter be entitled to claim his discharge on the ground of any irregularity or illegality in his engagement or any other ground whatsoever; and if within the said three months such person claims his discharge, no such irregularity or illegality or other ground shall, until such person is discharged in pursuance of his claim, affect his position as a [2][sailor] in the naval service or invalidate any proceedings, act or thing taken or done prior to his discharge.

13. Oath of allegiance.—Every officer and every [2][sailor] shall, as soon as may be, after appointment or enrolment make and subscribe before the commanding officer of the ship to which he belongs, or the prescribed officer an oath or affirmation in the following form, that is to say:—

"I.....do $\frac{\text{swear in the name of God}}{\text{Solemnly affirm}}$ that I will bear true faith and allegiance to the Constitution of India as by law established and that I will, as in duty bound, honestly and faithfully serve in the naval service and go wherever ordered by sea, land or air, and that I will observe and obey all commands of the President and the commands of any superior officer set over me, even to the peril of my life.".

CHAPTER V
CONDITIONS OF SERVICE

14. Liability for service of officers and sailors.—(*1*) Subject to the provisions of subsection (*4*), officers and [2][sailors] shall be liable to serve in the Indian Navy or the Indian Naval Reserve Forces, as the case may be, until they are duly discharged, dismissed, dismissed with disgrace, retired, permitted to resign, or released.

(*2*) No officer shall be at liberty to resign his office except with the permission of the Central Government and no [2][sailor] shall be at liberty to resign his post except with the permission of the prescribed officer.

(*3*) The acceptance of any resignation shall be a matter within the discretion of the Central Government or the officer concerned, as the case may be.

(*4*) Officers retired or permitted to resign shall be liable to recall to naval service in an emergency in accordance with regulations made under this Act, and on such recall shall be liable to serve until they have been duly discharged, dismissed, dismissed with disgrace, retired, permitted to resign, or released.

15. Tenure of service of officers and sailors.—(*1*) Every Officer and [2][sailor] shall hold office during the pleasure of the President.

(*2*) Subject to the provisions of this Act and the regulations made thereunder,—

(*a*) the Central Government may [3][dismiss or] discharge or retire from the naval service any officer or [2][sailor];

1. Subs. by Act 34 of 1987, s. 2, for "fifteen years" (w.e.f. 9-9-1987).
2. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-1974).
3. Ins by s. 5, *ibid*. (w.e.f. 16-12-197).

(*b*) the Chief of the Naval Staff or any prescribed officer may [1][dismiss or] discharge from the naval service any [2][sailor].

16. Discharge on expiry of engagement.—Subject to the provisions of section 18, a [2][sailor] shall be entitled to be discharged at the expiration of the term of service for which he is engaged unless—

(*a*) such expiration occurs during active service in which case he shall be liable to continue to serve for such further period as may be required by the Chief of the Naval Staff; or

(*b*) he is re-enrolled in accordance with the regulations made under this Act.

17. Provisions as to discharge.—(*1*) A [2][sailor] entitled to be discharged under section 16 shall be discharged with all convenient speed and in any case within one month of his becoming so entitled:

Provided that where a [2][sailor] is serving overseas as the time he becomes entitled to be discharged he shall be returned to India for the purpose of being discharged with all convenient speed, and in any case within three months of his becoming so entitled:

Provided further that where such enrolled person serving oversea does not desire to return to India, he may be discharged at the place where he is at the time.

(*2*) Every [2][sailor] discharged shall be entitled to be conveyed free of cost from any place he may be at the time to any place in India to which he may desire to go.

(*3*) Notwithstanding anything contained in the preceding sub-sections, an enrolled person shall remain liable to serve until he is duly discharged.

(*4*) Every [2][sailor] who is dismissed, discharged, retired, permitted to resign or released from service shall be furnished by the prescribed officer with a certificate in the language which is the mother tongue of such [2][sailor] and also in the English language setting forth—

(*a*) the authority terminating his service;

(*b*) the cause for such termination; and

(*c*) the full period of his service in the Indian Navy and the Indian Naval Reserve Forces.

18. Saving of powers of dismissal by naval tribunals.—Nothing in this Chapter shall affect the award by a naval tribunal of the punishment of dismissal with disgrace or dismissal from the naval service under this Act.

19. Restrictions respecting right to form associations, freedom of speech, etc.—(*1*) No person subject to naval law shall, without the express sanction of the Central Government,—

(*a*) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade unions, labour unions or political associations, or

(*b*) be a member of, or be associated in any way with, any other society, institution, association or organisation that is not recognised as part of the Armed Forces of the Union or is not of a purely social, recreational or religious nature.

Explanation.—If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature, the decision of the Central Government thereon shall be final.

(*2*) No person subject to naval law shall attend or address any meeting or take any part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be specified in this behalf by the Central Government.

(*3*) No person subject to naval law shall communicate with the press or publish or cause to be published any book, letter or other document having bearing on any naval, army or air force subject or

1. Ins by Act 53 of 1974, s. 5 (w.e.f. 16-12-1974).
2. Subs. by s. 2, *ibid*., for "seaman" (w.e.f. 16-12-1974).

containing any fact or opinion calculated to embarrass the relations between the Government and the people or any section thereof or between the Government and any foreign country, except with the previous sanction of the Central Government.

(*4*) No person subject to naval law shall whilst he is so subject practise any profession or carry on any occupation, trade or business without the previous sanction of the Chief of the Naval staff.

[1][**19A. Reinstatement of persons belonging to the Indian Naval Reserve Forces on termination of period of training or actual service with the Indian Navy**.—(*1*) If a person belonging to the Indian Naval Reserve Forces is, during the period of his employment under an Employer called up for training or called up into actual service with the Indian Navy in pursuance of his liability under any regulations made under this Act, it shall be the duty of every such employer to reinstate the person in his employment on the termination of the period of his training or service with the Indian Navy in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted:

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to be impracticable either party may refer the matter to the authority prescribed in this behalf and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

(*a*) exempting the employer from the provisions of this section, or

(*b*) requiring the employer to re-employ such person on such term as the authority thinks suitable, or

(*c*) requiring the employer to pay to such person by way of compensation for failure or inability to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(*2*) If any employer fails to obey the order of any such authority as is referred to in the proviso to subjection (*1)*, he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this sub-section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the Court shall be recoverable as if it were a fine imposed by such Court.

(*3*) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period of his training or service with the Indian Navy.

(*4*) The duty imposed by sub-section (*1*) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually called up for training or called up into actual service with the Indian Navy, terminates his Employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved, if the termination takes place after the issue of orders calling him up for training or service with the Indian Navy under this Act.

19B. Preservation of service rights belonging to the Indian Naval Reserve Forces when called up for training or actual service with the Indian Navy.—When any person belonging to the Indian Naval Reserve Forces and called up for training or called up into actual services with the Indian Navy in pursuance of his liability under any regulations made under this Act, has any rights under any provident fund or super annuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in training, or service with the Indian Navy and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.]

CHAPTER VI

SERVICE PRIVILEGES

20. Immunity from attachment.—The arms, clothes, equipments, accoutrements or necessaries of any person in the naval service, while subject to naval law, shall not be seized, nor shall the pay and

1. Ins. by Act 53 of 1974, s. 6 (w.e.f. 16-12-1974).

allowances or any part thereof of such person be attached under any process or direction issued by, or by the authority of, any court or public servant in respect of any claim, decree or order enforceable against him.

21. Immunity from arrest for debt.—(*1*) No person in the naval service shall, so long as he is subject to naval law, be liable to be arrested for debt under any process or direction issued by, or by the authority of, any Court or public servant.

(*2*) If any such person is arrested in contravention of the provisions of sub-section (*1*), the court or public servant by whom or by whose authority such process or direction was issued shall on complaint by the person arrested or by his superior officer enquire into the case and if satisfied that the arrest was made in contravention of sub-section (*1*), shall make an order for the immediate discharge of the person arrested and may award of the complainant the costs of the complaint to be recoverable in the same manner as if such costs were awarded to him by a decree against the person at whose instance such process or direction was issued.

(*3*) No court-fee shall be payable on a complaint made under sub-section (*2*) for recovery of the costs that may be awarded under that sub-section.

22. Immunity of persons attending court-martial or disciplinary court from arrest.—(*1*) No President or other member of a court-martial or disciplinary court, no judge, advocate, no party to any proceeding before a court-martial or disciplinary court or no advocate or agent of such party, and no witness acting in obedience to a summons to attend a court-martial or disciplinary court shall, while proceeding to, attending or returning from, a court-martial or disciplinary court, be liable to arrest under any civil or revenue process.

(*2*) If any such person is arrested under any such process, he may be discharged by order of the court-martial or disciplinary court, as the case may be.

23. Remedy of aggrieved persons.—(*1*) If an officer or [1][sailor] thinks that he has suffered any personal oppression, injustice or other ill-treatment at the hands of any superior officer, he may make a complaint in accordance with the regulations made under this Act.

(*2*) The regulations referred to in sub-section (*1*) shall provide for the complaint to be forwarded to the Central Government for its consideration if the complaint is not satisfied with the decision on his complaint.

24. Priority of hearing of cases concerning persons in the naval service.—(*1*) On the presentation to any Civil or Revenue Court by or on behalf of any person in the naval service while subject to naval law of a certificate from the proper naval authority of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the Court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(*2*) The certificate from the proper naval authority shall state the first and last day of the leave granted or applied for and set forth a description of the case with respect to which the leave has been granted or applied for, and shall be duly signed and authenticated by such authority.

(*3*) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case and every such certificate duly signed and authenticated as aforesaid shall be conclusive evidence of the correctness of the contents thereof.

(*4*) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of the leave granted or applied for as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application, without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(*5*) Every criminal court before which a case is pending against a person in the naval service, shall, so far as may be possible, arrange for the early hearing and final disposal of such case.

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2. Subs. by s. 2, *ibid*., for "seaman" (w.e.f. 16-12-1974).

25. Right of the Chief of the Naval Staff or commanding officers to obtain copies of judgments or orders made by a criminal court.—A criminal court before which any proceedings have been taken against a person in the naval service while subject to naval law shall, on application by the Chief of the Naval Staff or the commanding officer of that person, grant copies of the judgment and final orders in the case free of cost and without delay.

26. Saving of rights and privileges under other laws.—The rights and privileges specified in the preceding sections of this Chapter shall be in addition to, and not in derogation of, any other rights and privileges conferred on persons in the naval service while subject to naval law or on members of the regular Army, Navy and Air Force generally by any other law for the time being in force.

CHAPTER VII

PROVISIONS AS TO PAY, PENSION, ETC., AND MAINTENANCE OF FAMILIES

27. Deductions from pay, etc., not to be made unless authorised.—No deductions other than those authorised by or under this or any other Act shall be made from the pay, pensions, gratuities, allowances and other benefits due to officers and [1][sailors] under any regulations for the time being in force.

28. Deductions from pay and allowances of officers.—The following deductions may be made from the pay and allowances of an officer without recourse to trial by a naval tribunal, namely:—

(*1*) all pay and allowances for everyday of absence without leave unless an explanation is given to the satisfaction of the commanding officer for such absence and approved by the Chief of the Naval Staff:

Provided that the officer is not dealt with by a naval tribunal for the said absence;

(*2*) all pay and allowances for everyday while he is in civil or naval custody or under suspension from duty on a charge for an offence of which he is afterwards convicted by a competent naval tribunal or Criminal Court and sentenced to imprisonment;

(*3*) all pay and allowances for everyday while he is in hospital on account of sickness certified by the prescribed medical officer to have been caused by an act amounting to an offence punishable under this Act:

Provided that such certificate is accepted by the Chief of the Naval Staff;

(*4*) any sum required to make good the pay and allowances of any person subject to naval law which he has unlawfully retained or refused to pay;

(*5*) any sum required to make good any loss, damage or destruction of Government property or property belonging to a naval mess, band or institution which after due investigation appears to the Central Government, the Chief of the Naval Staff or the prescribed officer to have been occasioned by the wrongful act or negligence on the part of the officer;

(*6*) any sum required to be paid for the maintenance of his wife or legitimate or illegitimate children under the provisions of section 31;

(*7*) any sum which after due investigation appears to the prescribed officer to be due to a service mess or canteen.

29. Deductions from pay and allowances of sailors.—The following deductions may be made from the pay and allowances of a [1][sailor] without recourse to trial by a naval tribunal, namely:—

(*1*) all pay and allowances for everyday of absence without leave unless an explanation is given to the satisfaction of the commanding officer for such absence:

Provided that the [1][sailor] is not dealt with by a naval tribunal for the said absence;

1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-1974).

(*2*) all pay and allowances for everyday he is in confinement on a charge for an offence of which he is afterwards convicted by a competent naval tribunal or Criminal Court;

(*3*) all pay and allowances for everyday he is in hospital on account of sickness certified by the prescribed medical officer to have been caused by an act amounting to an offence punishable under this Act:

Provided that such certificate is accepted by the Chief of the Naval Staff or the prescribed officer;

(*4*) any sum required to make good any loss, damage or destruction of any property which after due investigation appears to the Central Government or the Chief of the Naval Staff or the prescribed officer to have been occasioned by the wrongful act or negligence on the part of the [1][sailor];

(*5*) any sum required to be paid for the maintenance of his wife or legitimate or illegitimate children under the provisions of section 31.

30. Deductions awarded by naval tribunals.—Deductions may be made from the pay and allowances of an officer or [1][sailor] in respect of any sentence of fine, forfeiture or mulcts of pay and allowances awarded in pursuance of this Act by a naval tribunal.

31. Liability for maintenance of wife and children.—(*1*) A person subject to naval law shall be liable to maintain his wife and his legitimate or illegitimate children to the same extent as if he were not so subject; but the execution or enforcement of any decree or order for maintenance passed or made against such person shall not be directed against his person pay, arms, ammunition, equipments, instruments or clothing.

(*2*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) where it appears to the satisfaction of the Central Government or the Chief of the Naval Staff or the prescribed authority that a person subject to naval law has without reasonable cause deserted or left in destitute circumstances his wife or any legitimate child unable to maintain himself or has by reason of contracting a second marriage become liable to provide separate maintenance to his first wife; or

(*b*) where any decree or order is passed under any law against a person who is, or subsequently becomes, subject to naval law for the maintenance of his wife or his legitimate or illegitimate children and a copy of the decree or order is sent to the Central Government or the Chief of the Naval Staff or the prescribed authority;

the Central Government, or the Chief of the Naval Staff or the prescribed authority may direct a portion of the pay of the person so subject to naval law to be deducted from such pay and appropriated in the prescribed manner towards the maintenance of his wife or children, but the amount deducted shall not exceed the amount fixed by the decree or order (if any) and shall not be at a higher rate than the rate fixed by regulation made under this Act in this behalf:

Provided that in the case of a decree or order for maintenance referred to in clause (*b*) no deduction from pay shall be directed unless the Central Government, or the Chief of the Naval Staff or the prescribed authority is satisfied that the person against whom such decree or order has been passed or made, has had a reasonable opportunity of appearing, or has actually appeared either in person or through a duly appointed legal practitioner, to defend the case before the Court by which the decree or order was passed or made.

(*3*) Where arrears of maintenance under a decree or order referred to in sub-section (*2*) have accumulated while the person against whom the decree or order has been made is subject to naval law whether or not deductions in respect thereof have been made from his pay under this section, no step for the recovery of those arrears shall be taken in any Court after such person has ceased to be so subject

1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-1974).

unless the Court is satisfied that he has, since he ceased to be subject to naval law, the ability to pay the arrears or any part thereof and has failed to do so.

(*4*) Notwithstanding anything contained in any other law, where a proceeding for obtaining a decree or order for maintenance is started against a person subject to naval law,—

(*a*) the court may send the process for service on that person to the commanding officer of the ship on which such person is serving or on the books of which he is borne; or

(*b*) if, by reason of the ship being at sea or otherwise, it is impracticable for the court to send the process to the commanding officer, the Court may, after not less than three weeks' notice to the Central Government, send it to a Secretary to that Government for transmission to the commanding officer for service on that person:

Provided that such service shall not be valid unless there is sent along with the process such sum of money as may be prescribed to enable that person to attend the hearing of the proceeding and to return to his ship or quarters after such attendance.

(*5*) If a decree or order is passed or made in the proceeding against the person on whom the process is served, the sum sent along with the process shall be awarded as costs of the proceeding against that person.

(*6*) No process in any proceeding under this section shall be valid against a person subject to naval law if served on him after he is under orders for service at a foreign station or beyond Indian waters.

(*7*) The production of a certificate of the receipt of the process purporting to be signed by such commanding officer as aforesaid shall be evidence that the process has been duly served, unless the contrary is proved.

(*8*) Where by a decree or order a copy whereof has been sent to the Central Government or the Chief of the Naval Staff or the prescribed authority under clause (*b*) of sub-section (*2*), the person against whom the decree or order has been passed or made is directed to pay as costs any sum sent along with the process [referred to in the proviso to sub-section (*4*)], the Central Government may pay to the person entitled an amount in full satisfaction of that sum and the amount so paid by the Central Government shall be deemed to be a public demand recoverable from the person against whom the decree or order has been passed or made, and without prejudice to any other mode of recovery, may be recovered by deduction from his pay, in addition to the deductions authorised by sub-section (*2*).

(*9*) Where any person subject to naval law has made an allotment of any part of his pay and allowances for the benefit of his wife, that allotment shall not be discontinued or reduced until the Central Government or the Chief of the Naval Staff or the prescribed authority is satisfied that the allotment should no longer be made or should be reduced.

(*10*) In this section, the expression "pay" includes all sums payable to a person subject to naval law in respect of his services other than allowances in lieu of lodgings, rations, provisions, clothing and travelling allowances.

32. Limit of certain deductions.—Except when the deductions are made under sub-sections (*1*), (*2*) and (*4*) of section 28 or sub-sections (*1*) and (*2*) of section 29, the total deductions from the pay and allowances of an officer or [1][sailor] shall not exceeded in any one month one-half of his pay and allowances for that month.

33. Remission of deductions.—(*1*) Any deduction from the pay and allowances authorised by or under this Act may be remitted by the Chief of the Naval Staff in his discretion.

(*2*) Such deduction may also be remitted in such manner and to such extent and by such other authority as may be prescribed.

1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-1974).

CHAPTER VIII

ARTICLES OF WAR

[1][**34. Misconduct by officers or persons in command.**—Every flag officer, captain or other person subject to naval law who, being in command of any ship, vessel or aircraft of the Indian Navy, or any naval establishment—

(*a*) fails to use his utmost exertions to bring into action any such ship, vessel or aircraft which it is his duty to bring into action; or

(*b*) surrenders any such ship, vessel or aircraft to the enemy when it is capable of being successfully defended or destroyed; or

(*c*) fails to pursue the enemy whom it is his duty to pursue or to assist to the utmost of his ability any friend whom it is his duty to assist; or

(*d*) in the course of any action by or against the enemy improperly withdraws from the action or from his station or fails in his own person and according to his rank to encourage the persons under his command to fight courageously; or

(*e*) surrenders any such naval establishment or any part of such an establishment to the enemy when it is capable of being successfully defended or when it is his duty to cause it to be destroyed,

shall,—

(*a*) if such act is committed with intent to assist the enemy or from cowardice, be punished with death or such other punishment as is hereinafter mentioned; and

(*b*) in any other case, be punished with imprisonment for a term which may extend to seven years or such other punishment as is hereinafter mentioned.

35. Misconduct by persons other than those in command.—Every person subject to naval law who, not being in command of any naval establishment or any ship, vessel or aircraft of the Indian Navy, fails when ordered to prepare for action by or against the enemy, or during any such action, to use his utmost exertions to carry the lawful orders of his superior officers into execution shall,—

(*a*) if such act is committed with intent to assist the enemy, be punished with death or such other punishment as is hereinafter mentioned; and

(*b*) in any other case, be punished with imprisonment for a term which may extend to seven years or such other punishment as is hereinafter mentioned.

36. Delaying or discouraging action or service commanded.—Every person subject to naval law who wilfully delays or discourages upon any pretext whatsoever, any action or service which has been commanded on the part of the Navy, regular Army, or Air Force or of any forces cooperating therewith shall,—

(*a*) if such act is committed with intent to assist the enemy, be punished with death or such other punishment as is hereinafter mentioned; and

(*b*) in any other case, be punished with imprisonment which may extend to seven years or such other punishment as is hereinafter mentioned.

37. Penalty for disobedience in action.—Every person subject to naval law who, being in the presence or vicinity of the enemy or having been ordered to be prepared for action by or against the enemy—

(*a*) desert his post; or

(*b*) sleeps upon his watch,

shall be punished with death or such other punishment as is hereinafter mentioned.]

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1. Subs. by Act 53 of 1974, s. 7, for sections 34 to 37 (w.e.f. 16-12-1974).

38. Penalty for spying.—Every person not otherwise subject to naval law who is or acts as a spy for the enemy shall be punished under this Act with death or such other punishment as is hereinafter mentioned as if he were a person subject to naval law.

39. Correspondence, etc., with the enemy.—Every person subject to naval law, who,—

(*a*) traitorously holds correspondence with the enemy or gives intelligence to the enemy; or

(*b*) fails to make known to the proper authorities any information he may have received from the enemy; or

(*c*) assists the enemy with any supplies; or

(*d*) having been made a prisoner of war, voluntarily serves with or aids the enemy;

shall be punished with death or such other punishment as is hereinafter mentioned.

40. Improper communication with the enemy.—Every person subject to naval law who without any traitorous intention holds any improper communication with the enemy shall be punished with imprisonment for a term which may extend to fourteen years or such other punishment as is hereinafter mentioned.

41. Deserting post and neglect of duty.—Every person subject to naval law, who,—

(*a*) deserts his post; or

(*b*) sleeps upon his watch; or

[1][(*c*) fails to perform or negligently performs the duty imposed on him; or]

(*d*) wilfully conceals any words, practice or design tending to the hindrance of the naval service;

shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

[2]**[42. Mutiny defined.—**Mutiny means any assembly or combination of two or more persons subject to naval law, the Army Act, 1950 (46 of 1950), or the Air Force Act, 1950 (45 of 1950), or between persons two at least of whom, are subject to naval law or any such Act,—

(*a*) to overthrow or resist lawful authority in the Navy, regular Army or Air Force or any part of any one or more of them or any forces co-operating therewith or any part thereof; or

(*b*) to disobey such authority in such circumstances as to make the disobedience subversive of discipline or with the object of avoiding any duty or service against, or in connection with operations against, the enemy; or

(*c*) to show contempt to such authority in such circumstances as to make such conduct subversive of discipline; or

(*d*) to impede the performance of any duty or service in the Navy, regular Army or Air Force or any part of any one or more of them or any forces co-operating therewith or any part thereof.]

43. Punishment for mutiny.—Every person subject to naval law, who,—

(*a*) joins in a mutiny; or

(*b*) begins, incites, causes or conspires with any other persons to cause, a mutiny; or

(*c*) endeavours to incite any person to join in a mutiny or to commit an act of mutiny; or

(*d*) endeavours to seduce any person in the regular Army, Navy or Air Force from his allegiance to the Constitution or loyalty to the State or duty to his superior officers or uses any means to compel or induce any such person to abstain from acting against the enemy or discourage such person from acting against the enemy; or

(*e*) does not use his utmost exertions to suppress [3][or prevent] a mutiny; or

(*f*) wilfully conceals any traitorous or mutinous practice or design or any traitorous words spoken against the State; or

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1. Subs. by Act 53 of 1974, s. 8, for clause (*c*) (w.e.f. 16-12-1974).
2. Subs. by s. 9, *ibid.,* for section 42 (w.e.f. 16-12-1974).
3. Ins by Act 53 of 1974, s. 10 (w.e.f. 16-12-1974).

(*g*) knowing or having reason to believe in the existence of any mutiny or of any intention to mutiny does not without delay give information thereof to the commanding officer of his ship or other superior officer; or

(*h*) utters words of sedition or mutiny;

shall be punished with death or such other punishment as is hereinafter mentioned.

44. Persons on board ships or aircraft seducing naval personnel from allegiance.—Every person not otherwise subject to naval law who being on board any ship or aircraft of the Indian Navy or on board any ship in the service of the Government endeavours to seduce from his allegiance to the Constitution or loyalty to the State or duty to superior officers any person subject to naval law shall be punished under this Act with death or such other punishment as is hereinafter mentioned as if he were a person subject to naval law.

45. Striking superior officers.—Every person subject to naval law who commits any of the following offences, that is to say,—

(*a*) strikes or attempts to strike his superior officer; or

(*b*) draws or lifts up any weapon against such officer; or

(*c*) uses or attempts to use any violence against such officer;

shall be punished,—

if the offence is committed on active service with imprisonment for a term which may extend to ten years or such other punishment as is hereinafter mentioned; and

in any other case, with imprisonment for a term which may extend to five years or such other punishment as is hereinafter mentioned.

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46. Ill-treating subordinates.—Every person subject to naval law who is guilty of ill-treating any other person subject to such law, being his subordinate in rank or position, shall be punished with imprisonment for a term which may extend to seven years or such other punishment as is hereinafter mentioned.

47. Disobedience and insubordination.—Every person subject to naval law, who,—

(*a*) wilfully disobeys any lawful command of his superior officer; or

(*b*) in the presence of his superior officer, or otherwise shows or expresses his intention to disobey a lawful command given by such superior officer; or

(*c*) uses insubordinate, threatening or insulting language to his superior officer; or

(*d*) behaves with contempt to his superior officer;

shall, if the offence is committed on active service or in a manner to show wilful defiance of authority, be punished with imprisonment for a term which may extend to ten years or such other punishment as is hereinafter mentioned and in other cases, be punished with imprisonment for a term which may extend to three years or such other punishment as is hereinafter mentioned.

48. Quarrelling, fighting and disorderly behaviour.—Every person subject to naval law, who,—

(*a*) quarrels, fights with or strikes any other person, whether such person is or is not subject to naval law; or

(*b*) uses reproachful or provoking speeches or gestures tending to make a quarrel or disturbance; or

(*c*) behaves in a disorderly manner;

shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

49. Desertion.—(*1*) Every person subject to naval law who absents himself from his ship or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who at

any time and under any circumstances when absent from his ship or place of duty does any act which shows that he has an intention of not returning to such ship or place is said to desert.

(*2*) Every person who deserts shall,—

(*a*) if he deserts to the enemy, be punished with death or such other punishment as is hereinafter mentioned; or

(*b*) if he deserts under any other circumstances, be punished with imprisonment for a term which may extend to fourteen years or such other punishment as is hereinafter mentioned;

and in every such case he shall forfeit all pay, head money, bounty, salvage, prize money and allowances that have been earned by him and all annuities, pensions, gratuities, medals and decorations that may have been granted to him and also all clothes and effects which he may have left on board the ship or the place from which he deserted, unless the tribunal by which he is tried or the Central Government or the Chief of the Naval Staff, otherwise directs.

50. Inducing person to desert.—Every person subject to naval law who endeavours to seduce any other person subject to naval law to desert shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

51. Breaking out of ship and absence without leave.—Every person subject to naval law who without being guilty of desertion improperly leaves his ship or place of duty [1][or any place where he is required to be] or is absent without leave shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned and shall also be punished by such mulcts of pay and allowances as may be prescribed.

52. Drunkenness.—[2][(*1*)] Every person subject to naval law who is guilty of drunkenness shall, if the offence is committed on active service, be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned and in other cases be punished with imprisonment for a term which may extend to six months or such other punishment as is hereinafter mentioned.

[3][(*2*) For the purpose of sub-section (*1*), a person shall be deemed to be guilty of drunkenness if, owing to the influence of alcohol or any drug whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform or behaves in a disorderly manner or in a manner likely to bring discredit to the naval service.]

53. Uncleanness or indecent acts.—Every person subject to naval law who is guilty of,—

(*a*) uncleanness; or

(*b*) any indecent act;

shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

54. Cruelty and conduct unbecoming the character of an officer.—(*1*) Every officer subject to naval law who is guilty of cruelty shall be punished with imprisonment for a term which may extend to seven years or such other punishment as is hereinafter mentioned.

(*2*) Every officer subject to naval law who is guilty of any scandalous or fraudulent conduct or of any conduct unbecoming the character of an officer shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

1. Ins by Act 53 of 1974, s. 11 (w.e.f. 16-12-1974).
2. Section 52 renumbered as sub-section (*1*) thereof by s. 12, *ibid.* (w.e.f. 16-12-1974).
3. Ins. by s. 12, *ibid.* (w.e.f. 16-12-1974).

55. Losing ship or aircraft.—(*1*) Every person subject to naval law who [1][wilfully] loses, strands or hazards or suffers to be lost, stranded or hazarded any ship of the Indian Navy or in the service of the Government, or loses or suffers to be lost any aircraft of the Indian Navy or in the service of the Government shall be punished with imprisonment for a term which may extend to fourteen years or such other punishment as is hereinafter mentioned.

(*2*) Every person subject to naval law who negligently or by any default loses, strands or hazards or suffers to be lost, stranded or hazarded any ship of the Indian Navy or in the service of the Government, or loses or suffers to be lost any aircraft of the Indian Navy or in the service of the Government shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

[2][**55A. Dangerous unauthorised flying.—**Every person subject to naval law, who is guilty of any act or neglect in flying or in the use of any aircraft of the Indian Navy or in relation to any such aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall,—

(*a*) if he acts wilfully or with wilful neglect, be punished with imprisonment for a term which may extend to fourteen years [3][or such other punishment as is hereinafter mentioned]; and

(*b*) in any other case, be punished with imprisonment for a term which may extend to five years or such other punishment as is hereinafter mentioned.

55B. Inaccurate certificate.—Every person subject to naval law who signs any certificate in relation to an aircraft or aircraft material belonging to or in the service of the Government without ensuring the accuracy thereof, shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

55C. Low flying and annoyance by flying.—Every person subject to naval law being the pilot of an aircraft of the Indian Navy, who—

(*a*) flies it at a height less than the minimum height authorised by his commanding officer or appropriate service authority except while taking off or landing; or

(*b*) flies it so as to cause or likely to cause unnecessary annoyance to any person,

shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

55D. Disobedience of lawful command of captain of an aircraft.—Every person subject to naval law, who while he is in an aircraft belonging to or in the use of the Government, disobeys any lawful command given by the captain of the aircraft, whether such captain is subject to naval law or not, in relation to all matters relating to flying or handling of the aircraft or affecting the safety thereof, shall be punished with imprisonment for a term which may extend to fourteen years or such other punishment as is hereinafter mentioned.]

56. Offences by officers in charge of convoy.—(*1*) All officers appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay according to their instructions in that behalf.

(*2*) Every such officer subject to naval law, who,—

(*a*) does not defend the ships and goods under his convoy without deviation to any other objects; or

(*b*) refuses to fight in their defence if they are assailed; or

(*c*) cowardly abandons and exposes the ships in his convoy to hazard; or

(*d*) demands or exacts any money or other reward from any merchant or master for convoying any ships or vessels entrusted to his care; or

1. Subs. by Act 53 of 1974, s. 14, for "designedly" (w.e.f. 16-12-1974).
2. Ins. by s. 14, *ibid.* (w.e.f. 15-12-1974).
3. Ins. by Act 48 of 1982, s. 2 (w.e.f. 16-10-1982).

(*e*) misuses the masters or mariners thereof;

shall be punished with death or such other punishment as is hereinafter mentioned, and shall also make such reparation in damages to the merchants, owners and others as a Civil Court of competent jurisdiction may adjudge.

57. Taking unauthorised goods on board ship.—Every officer subject to naval law in command of any ship of the Indian Navy who receives on board or permits to be received on board such ship any goods or merchandise whatsoever other than for the sole use of the ship or persons belonging to the ship, except goods and merchandise on board any ship which may be shipwrecked or in imminent danger either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Central Government or his superior officer, shall be punished with dismissal from the naval service or such other punishment as is hereinafter mentioned.

58. Offences in respect of property.—Every person subject to naval law who wastefully expends or fraudulently buys, sells or receives any property of Government or property belonging to a naval, military or air force mess, band or institution, and every person who knowingly permits any such wasteful expenditure, or any such fraudulent purchase, sale or receipt, shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

59. Arson.—Every person subject to naval law who unlawfully sets fire to any dockyard, victualling yard or steam factory yard, arsenal, magazine, building, stores or to any ship, vessel, hoy, barge, boat, aircraft, or other craft or furniture thereunto belonging, not being the property of an enemy, shall be punished with death or such other punishment as is hereinafter mentioned.

60. Falsifying official documents and false declarations.—Every person subject to naval law—

(*a*) who knowingly makes or signs a false report, return, list, certificate, book, muster or other document to be used for official purposes; or

(*b*) who commands, counsels or procures the making or signing thereof; or

(*c*) who aids or abets any other person in the making or signing thereof; or

(*d*) who knowingly makes, commands, counsels or procures the making of, a false or fraudulent statement or a fraudulent omission in any such document;

shall be punished with imprisonment for a term which may extend to seven years or such other punishment as is hereinafter mentioned.

61. Malingering, etc.—Every person subject to naval law—

(*a*) who wilfully does any act or wilfully disobeys any orders whether in hospital or elsewhere with intent to produce or to aggravate any disease or infirmity or to delay his cure; or

(*b*) who feigns any disease, infirmity or inability to perform his duty;

shall be punished with imprisonment for a term which may extend to five years or such other punishment as is hereinafter mentioned.

62. Penalty for endeavouring to stir up disturbance on account of unwholesomeness of victuals or other just grounds.—Every person subject to naval law who has any cause of complaint either of the unwholesomeness of the victuals or upon any other just ground shall quietly make the same known to his superior or captain or to the Chief of the Naval Staff, in accordance with the prescribed channels of communication and the said superior, captain or Chief of the Naval Staff shall, as far as he is able, cause the same to be presently remedied; and every person subject to naval law who upon any pretence whatever attempts to stir up any disturbance shall be punished with imprisonment for a term which may extend to fourteen years or such other punishment as is hereinafter mentioned.

63. Offences in respect of papers relating to prize.—(*1*) All the papers, charter-parties, bills of lading passports and other writings whatsoever that shall be taken, seized, or found [1][aboard] any ships which are taken as prize shall be duly preserved and the commanding officer of the ship which takes such prize shall send the originals entire and without fraud to the Court of competent jurisdiction or such other Court or commissioners as shall be authorised to determine whether such prize be lawful capture, there to be viewed, made use of and proceeded upon according to law.

(*2*) Every commanding officer who wilfully fails to send the papers, charter-parties, bills of lading, passports or other writings whatsoever that shall be taken, seized, or found [1][aboard] any ships which are taken as prize to the proper Court or other authority shall be punished with dismissal from the naval service or such other punishment as is hereinafter mentioned and in addition shall forfeit and lose any share of the capture.

64. Offences in respect of price.—Every person subject to naval law who takes out of any prize or ship seized for prize, any money, plate or goods, unless it is necessary for the better securing thereof, or for the necessary use and service of any ships of war of the Indian Navy, before the same be adjuged lawful prize in a Court of competent jurisdiction, shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned, and in addition shall forfeit and lose his share of the capture.

65. Offences in respect of persons on board of prize ship.—Every person subject to naval law who in any sort pillages, beats, or ill-treats officers, mariners or other persons on board a ship or vessel taken as prize or who unlawfully strips them off their clothes, shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

66. Unlawful taking or ransoming of prize.—Every commanding officer of a ship of the Indian Navy subject to naval law, who,—

(*a*) by collusion with the enemy take as prize any vessel, goods or thing; or

(*b*) unlawfully agrees with any person for the ransoming of any vessel, goods or thing taken as prize; or

(*c*) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods or thing taken as prize;

shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

67. Breaking bulk on board a prize ship.—Every person subject to naval law who breaks bulk on board any vessel taken as prize, or detained in the exercise of any beligerent right or under any law relating to piracy or to the slave trade or to the customs, with intent dishonestly to misappropriate anything therein or belonging thereto, shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

68. Violation of the Act, regulations and orders.—Every person subject to naval law who neglects to obey or contravenes any provisions of this Act or any regulation made under this Act or any general or local order, shall, unless other punishment is provided in this Act for such neglect or contravention, be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

69. Offences in relation to Court-martial.—Every person subject to naval law, who,—

(*a*) being duly summoned or ordered to attend as a witness before a court-martial wilfully or without reasonable excuse fails to attend; or

(*b*) refuses to take an oath or make an affirmation legally required by a court-martial to be taken or made; or

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1. Subs. by Act 58 of 1960, s. 3 and Sch. II, for "abroad" (w.e.f. 26-12-1960).

(*c*) being sworn, refuses to answer any questions which he is in law bound to answer; or

(*d*) refuses to produce or deliver up a document in his power which the court may legally demand; or

(*e*) is guilty of contempt of court-martial;

shall be punished with imprisonment for a term which may extend to three years or such other punishment as is hereinafter mentioned.

70. Fraudulent entry.—Every person who upon entry into or offering himself to enter the naval service wilfully makes or gives any false statement whether orally or in writing to any officer or person authorised to enter or enrol [1][sailors] or others in or for such naval service, shall, if he has become subject to naval law, be punished with imprisonment for a term which may extend to five years or such other punishment as is hereinafter mentioned.

71. Escape from custody.—Every person subject to naval law who being in lawful custody escapes or attempts to escape from such custody shall be punished with imprisonment for a term which may extend to five years or such other punishment as is hereinafter mentioned.

72. Failure to assist in detention of offenders.—Every person subject to naval law, who,—

(*a*) does not use his utmost endeavours to detect, apprehend or bring to punishment all offenders against this Act; or

(*b*) does not assist the officers appointed for that purpose;

shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

73. Penalty for failure to attend by members of reserve forces when called up.—Every member of the Indian Naval Reserve Forces [2][and every person belonging to any auxiliary forces raised under this Act] who, when called up for training or when called up into actual service with the Indian Navy in pursuance of the regulations made under this Act, and required by such call to join any ship or attend at any place, fails, without reasonable excuse to comply with such requirement, shall be punished with imprisonment for a term which may extend to three years or such other punishment as is hereinafter mentioned.

74. Offences against good order and naval discipline.—Every person subject to naval law who is guilty of an act, disorder, or neglect to the prejudice of good order and naval discipline, not hereinbefore specified, shall be punished with imprisonment for a term which may extend to three years or such other punishment as is hereinafter mentioned.

75. Attempts.—Every person subject to naval law who attempts to commit any of the offences specified in sections 34 to 74 and 76 and in such attempt does any act towards the commission of the offence shall, where no express provision is made by this Act for the punishment of such attempt, be punished,

(*a*) if the offence attempted to be committed is punishable with death, with imprisonment for a term which may extend to fourteen years or such other punishment as is hereinafter mentioned, and

(*b*) if the offence attempted to be committed is punishable with imprisonment, with one-half of the maximum punishment provided for the offence or with such other punishment as is hereinafter mentioned.

76. Abetment of offences.—Any person subject to naval law who abets the commission of any of the offences specified in sections 34 to 74 shall, whether the act abetted is committed or not in consequence of the abetment, and where no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for that offence.

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1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-74).
2. Ins. by s. 15, *ibid.* (w.e.f. 16-12-1974).

77. Civil offences.—(*1*) Every person subject to naval law who commits a civil offence punishable with death or with imprisonment for life shall be punished with the punishment assigned for that offence.

(*2*) Every person subject to naval law who commits any other civil offence shall be punished either with the punishment assigned for the offence or with imprisonment for a term which may extend to three years or such other punishment as is hereinafter mentioned.

78. Jurisdiction as to place and offences.—(*1*) Subject to the provisions of sub-section (*2*), every person subject to naval law who is charged with a naval offence or a civil offence may be tried and punished under this Act regardless of where the alleged offence was committed.

(*2*) A person subject to naval law who commits an offence of murder against a person not subject to army, naval or air force law or an offence of culpable homicide not amounting to murder against such person or an offence of rape in relation to such person shall not be tried and punished under this Act unless he commits any of the said offences—

(*a*) while on active service; or

(*b*) at any place outside India; or

(*c*) at any place specified by the Central Government by notification in this behalf.

79. Jurisdiction as to time.—No person unless he is an offender who has avoided apprehension or fled form justice or committed the offence of desertion or fraudulent entry or the offence of mutiny shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial commences within three years from the commission of such offence:

Provided that in the computation of the said period of three years any time during which an offender was outside India or any time during which he was a prisoner of war shall be deducted:

[1][Provided further that in computation of the said period of three years, any time during which,—

(*a*) the commission of the offence was not known to the person aggrieved by the offence or to the authority competent to initiate action, the first day on which such offence comes to the knowledge of such person or authority, whichever is earlier;

(*b*) it was not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the authority investigating into the offence, whichever is earlier, shall be excluded;

Provided also that where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the said period of three years, the period of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was withdrawn shall be excluded:

Provided also that] no trial for an offence of desertion other than desertion on active service or fraudulent entry shall be commenced if the person in question not being an officer has subsequently to the commission of the offence served continuously in an exemplary manner for not less than three years in the Indian Navy.

80. Trial after a person ceases to be subject to naval law.—When any offence mentioned in this Chapter has been committed by any person while subject to naval law and such person has since the commission of the offence ceased to be subject to naval law, he may be taken into and kept in custody, tried and punished under this Act for such offence in like manner as he may have been taken into and kept in custody, tried and punished if he had continued subject to naval law:

Provided that he shall not be tried for such offence except in the case of an offence of mutiny or desertion, unless the trial against him commences within six months after he has ceased to be so subject.

1. Subs. by Act 23 of 2005, s. 3, for "Proviso further that" (w.e.f. 23-6-2005).

CHAPTER IX

PROVISIONS AS TO PUNISHMENTS

81. Punishments.—(*1*) The following punishments may be inflicted under this Act, namely:—

(*a*) death;

(*b*) imprisonment which may be for the term of life or any other lesser term;

(*c*) dismissal with disgrace from the naval service;

(*d*) detention;

(*e*) dismissal from the naval service;

(*f*) forfeiture of seniority in rank in the case of officers [1][and master chief petty officers];

(*g*) forfeiture of time for promotion in the case of [2][officers below the rank of commander and master chief petty officers];

(*h*) dismissal from the ship to which the offender belongs;

(*i*) [3][reduction in rank], in the case of [4][petty officers] and persons holding leading rates;

(*j*) fine, in respect of civil offences;

(*k*) mulcts of pay and allowances;

(*l*) severe reprimand or reprimand;

(*m*) forfeiture of pay, head money, bounty, salvage, prize money and allowances earned by, and all annuities, pensions, gratuities, medals and decorations granted to, the offender or of any one or more of the above particulars; also in the case of desertion, of all clothes and effects left by the deserter in the ship to which he belongs;

(*n*) such minor punishments as are inflicted according to the custom of the navy or may from time to time be prescribed.

(*2*) Each of the punishments specified in sub-section (*1*) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

82. Provisions as to award of punishment.—(*1*) The punishments that may be inflicted under this Act shall be awarded in accordance with the provisions of the following sub-sections.

(*2*) Except in the case of mutiny in time of war or on active service, the punishment of death shall not be inflicted on any offender until the sentence has been confirmed by the Central Government.

(*3*) The punishment of imprisonment for a term exceeding two years shall in all cases be accompanied by a sentence of dismissal with disgrace from the naval service.

(*4*) The punishment of imprisonment for a term not exceeding two years may in all cases be accompanied by a sentence of dismissal with disgrace or dismissal from the naval service:

Provided that in the case of officers, unless the sentence of dismissal with disgrace is also awarded, such sentence of imprisonment shall involve dismissal from the naval service.

(*5*) The sentence of imprisonment may be rigorous or simple, or partly rigorous and partly simple.

(*6*) The sentence of dismissal with disgrace shall involve in all cases forfeiture of all pay, head money, bounty, salvage, prize money and allowances that have been earned by and of all annuities, pensions, gratuities, medals and decorations that may have been granted to the offender and an incapacity

1. Ins. by Act 48 of 1982, s. 3 (w.e.f. 16-10-1982).
2. Subs. by s. 3, *ibid.,* for "subordinate officers" (w.e.f. 16-10-1982).
3. Subs. by s. 3, *ibid*., for "disrating" (w.e.f. 16-10-1982).
4. Subs. by s. 3, *ibid*., for "subordinate and petty officers" (w.e.f. 16-10-1982).

to serve Government again in a defence service, or a civil service, or to hold any post connected with defence or any civil post under the Government:

Provided that the forfeiture of moneys shall not apply, except in the case of deserters, to moneys which should have been paid on the last pay day preceding conviction.

(*7*) The punishment of dismissal from the naval service shall in the case of persons who hold any lien on appointments in the regular Army or Air Force, involve dismissal from such army or air force service.

(*8*) The punishment of detention may be inflicted for any term not exceeding two years but no sentence of detention shall be awarded unless naval detention quarters or army or air force detention barracks are in existence.

(*9*) The punishment of imprisonment or detention whether on board ship or on shore shall, subject to the provisions of sub-section (*14*), involve [1][reduction in rank], in the case of a petty officer or a person holding a leading [2][rank], and shall in all cases be accompanied by stoppage of pay and allowances during the term of imprisonment or detention:

Provided that where the punishment awarded is detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay and allowances during the term of detention.

(*10*) No officer shall be subject to detention.

(*11*) The punishment of forfeiture of seniority shall be imposed in the substantive rank held at the date of the sentence, and shall involve a corresponding forfeiture of seniority in every higher acting rank subject always to the condition that forfeiture of seniority in any rank shall in no case exceed the seniority in that rank at the date of the sentence.

(*12*) The punishment of forfeiture of seniority shall involve the loss of the benefit of service included in the seniority forfeited for the purposes of pay, pension, gratuity, promotion and such other purposes, as may be prescribed, provided that such pay, pension, gratuity and promotion and other purposes depend upon such service.

[3][(*12A*) No master chief petty officer shall be subject to the punishment of forfeiture of seniority of more than twelve months.]

(*13*) The punishment of forfeiture of time for promotion shall delay the promotion by the time specified,

[3][(*13A*) No master chief petty officer shall be subject to the punishment of forfeiture of time for promotion of more than twelve months.]

(*14*) No person shall be [4][reduced in rank] below the limits prescribed, or lower either actually or relatively than the [5][rank] in which he entered or was appointed in the naval service.

(*15*) Mulcts of pay and allowances shall not be awarded except as provided in sub-sections (*16*) and (*17*).

(*16*) Mulcts of pay and allowances shall be awarded in accordance with the regulations made under this Act on conviction of offences under Section 51.

1. Subs. by Act 48 of 1982, s. 4, for "distracting" (w.e.f. 16-10-1982).
2. Subs. by s. 4, *ibid.*, for "rate" (w.e.f. 16-10-1982).
3. Ins. by s. 4, *ibid*. (w.e.f. 16-10-1982).
4. Subs. by s. 4, *ibid.,* for "distracting" (w.e.f. 16-10-1982).
5. Subs. by s. 4, *ibid*., for "rate" (w.e.f. 16-10-1982).

(*17*) Mulcts of pay may also be awarded to make good any proved loss or damage occasioned by the offence on which there is a conviction, and for the offence of drunkenness by [1][sailors].

(18) The punishment of fine may be awarded in respect of civil offences in addition to, or in lieu of, other punishments specified in this Act.

(*19*) The forfeiture of moneys under clause (*m*) of sub-section (*1*) of section 81 shall not, except in case of desertion apply to moneys which should have been paid on the last pay day preceding conviction.

(*20*) All other punishments authorised by this Act may be inflicted in such manner as is heretofore in use in the naval service or as may be prescribed.

(*21*) Subject to the provisions of the foregoing sub-sections, where any punishment is specified by this Act as the penalty for an offence and it is further declared that "such other punishment as is hereinafter mentioned" may be awarded in respect of the same offence, the expression "such other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale of punishments laid down in sub-section (*1*) of section 81.

CHAPTER X

ARREST

83. Power to issue warrants of arrest.—(*1*) The Chief of the Naval Staff, every officer in command of a fleet or squadron of ships of the Indian Navy or of any ship of the Indian Navy or the senior officer present at a port or an officer having by virtue of sub-sections (*2*) and (*3*) of section 93 power to try offences, may, by warrant under his hand, authorise any person to arrest any offender subject to naval law for any offence triable under this Act mentioned in such warrant and any such warrant may include the names of more persons than one in respect of several offences of the same nature.

(*2*) Any person named in any such warrant as aforesaid may, forthwith on his arrest, if the warrant so directs, be taken to the ship of the Indian Navy to which he belongs or some other ship of the Indian Navy.

(*3*) A person authorised to arrest an offender may use such force as may be necessary for the purpose of effecting such arrest.

(*4*) Where a warrant under sub-section (*1*) is issued to a police officer, the police officer shall take steps to execute the warrant and arrest the offender in like manner as if such warrant had been issued by a Magistrate of competent jurisdiction and shall, as soon as may be, deliver the person when arrested into naval custody.

84. Arrest without warrant.—(*1*) Any person subject to naval law may be ordered without warrant into naval custody by any superior officer for any offence triable under this Act.

(*2*) A person subject to naval law may arrest without warrant any other person subject to naval law though he may be of a higher rank who in his view commits an offence punishable with death, or imprisonment for life or for a term which may extend to fourteen years.

(*3*) A provost-marshal may arrest any person subject to naval law in accordance with the provisions of section 89.

(*4*) It shall be lawful for the purpose of effecting arrest, or taking a person into custody, without warrant to use such force as may be necessary for the purpose.

85. Procedure and conditions of naval custody.—(*1*) No person subject to naval law who is arrested under this Act shall be detained in naval custody without being informed, as soon as may be, of the grounds for such arrest.

(*2*) Every person subject to naval law who is arrested and detained in naval custody shall be produced before his commanding officer or other officer prescribed in this behalf within a period of forty-eight hours of such arrest excluding the time necessary for the journey from the place of arrest to such

1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-10-1982).

commanding or other officer and no such person shall be detained in custody beyond the said period without the authority of such commanding or other officer.

86. Investigation after arrest.—The charge made against any person subject to naval law taken into custody shall without any unnecessary delay be investigated by the proper authority and as soon as may be either proceedings shall be taken for the trial or such person shall be discharged from custody.

87. Duty to receive or keep in custody.—(*1*) The commanding officer shall be responsible for the safe custody of every person who is in naval custody on board his ship or in his establishment.

(*2*) The officer or [1][sailor] in charge of a guard, or a provost-marshal shall receive and keep any person who is duly committed to his custody.

88. Procedure before trial.—Subject to the provisions of this Act, the procedure before trial and the manner of investigation shall be as prescribed.

89. Provost-marshals.—(*1*) Provost-marshals may be appointed by the Chief of the Naval Staff or the prescribed officer.

(*2*) The duties of a provost-marshal or to take charge of persons in naval custody, to preserve good order and discipline and to prevent breaches of the same by persons subject to naval law or to the law in force relating to the Government of the regular Army or the Air Force.

(*3*) A provost-marshal may at any time arrest and detain for trial any person subject to naval law who commits, or is charged with, an offence and may also carry into effect any punishment to be inflicted in pursance of a sentence passed under this Act, but shall not inflict any punishment on his own authority:

Provided that no officer shall be so arrested or detained otherwise than on the order of another officer.

(*4*) For the purpose of sub-sections (*2*) and (*3*), a provost-marshal shall be deemed to include a provost-marshal and any of his assistants appointed under the law in force relating to the government of the regular Army or the Air Force.

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CHAPTER XI

CHARGE

90. Joinder of charges.—For every distinct offence of which any person is accused, there shall be a separate charge but except as otherwise provided by regulations made under this Act all separate charges may be tried together.

91. Acts amounting to different offences.—If a single act or series of acts is of such a nature that it is doubtful which of several offences the acts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at one trial; or he may be charged in the alternative with having committed some one of the said offences.

92. Joinder of accused person.—The following persons may be charged and tried together, namely:—

(*i*) persons accused of the same offence committed in the course of the same transaction;

(*ii*) persons accused of an offence and persons accused of abetment of, or an attempt to commit, such offence; and

(*iii*) persons accused of different offences committed in the course of the same transaction:

Provided that in a trial by a court-martial the trial judge advocate may, on the application made in this behalf by any accused, direct that each of the accused be tried separately by the same court-martial.

1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-10-1982).

CHAPTER XII

AUTHORITIES SAVING POWER TO AWARD PUNISHMENTS

93. Power of court-martial and commanding officers to try offences.—(*1*) An offence triable under this Act may be tried and punished by court-martial.

(*2*) An offence not capital which is triable under this Act and which is committed by a person other than an officer (and in cases by this Act expressly provided for when committed by an officer), may, subject to regulations made under this Act be summarily tried and punished by the commanding officer of the ship to which the offender belongs at the time either of the commission or of the trial of the offence, subject to the restriction that the commanding officer shall not have power to award imprisonment or detention for more than three months, or to award dismissal with disgrace from the naval service:

Provided that no sentence of imprisonment or dismissal shall be carried into effect until approved by the prescribed authorities.

(*3*) The power by this section vested in a commanding officer of a ship may, subject to regulations made under this Act,—

(*a*) as respects [1][sailors] on board a tender to the ship, be exercised in the case of a single tender absent from the ship, by the officer in command of such tender and in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders;

(*b*) as respects [1][sailors] on board any boat belonging to the ship, be exercised when such boat is absent on detached service by the officer in command of the boat;

(*c*) as respects [1][sailors] on detached service either on shore or otherwise, be exercised by the officer in immediate command of those persons;

(*d*) as respects [1][sailors] quartered in naval barracks, be exercised by the officer in command of the barracks;

(*e*) as respects [1][sailors] attached to or serving with any body of the regular Army or the Air Force under prescribed conditions be exercised by the commanding officer of any such body of the regular Army or the Air Force.

(*4*) The commanding officer of a ship or barracks may delegate the power of awarding punishments inferior in scale to dismissal, to other officers under his command in accordance with the regulations made under this Act.

94. Power of Central Government, Chief of the Naval Staff and other officers to impose forfeiture of time or seniority.—[2][(*1*) The Central Government may impose on any officer below the rank of commander one or more of the following punishments, namely:—

(*a*) forfeiture of seniority in rank of not more than twelve months;

(*b*) forfeiture of time for promotion of not more than twelve months;

(*c*) mulcts of pay and allowances.

(*2*) The Chief of the Naval Staff may impose on [3][any officer below the rank of commander] one or more of the following punishments, namely:—

(*a*) forfeiture of seniority in rank of not more than six months;

(*b*) forfeiture of time for promotion of not more than six months;

(*c*) mulcts of pay and allowances.

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1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-1974).
2. Subs. by Act 23 of 2005, s. 4, for sub-sections (*1*), (*2*), (*2A*), and (*3*) (w.e.f. 23-6-2005).
3. Subs. by Act 48 of 1982, s. 5, for "any subordinate officer" (w.e.f. 16-10-1982).

(*2A*) The Flag Officer Commanding-in-Chief of a naval command may, subject to regulations made under this Act, impose on any officer below the rank of commander one or more of the following punishments, namely:—

(*a*) forfeiture of seniority in rank of not more than three months;

(*b*) forfeiture of time for promotion of not more than three months;

(*c*) severe reprimand or reprimand;

(*d*) mulcts of pay and allowances.

(*3*) The commanding officer of a ship may. subject to regulations made under this Act, may impose on any officer below the rank of commander one or more of the following punishments, namely:—

(*a*) forfeiture of seniority in rank of not more than three months;

(*b*) forfeiture of time for promotion of not more than three months;

(c) mulcts of pay and allowances.]

(*4*) In imposing punishments under sub-sections (*1*) [1][(*2*) and (*2A*)], it shall not be necessary for the Central Government or the Chief of the Naval Staff, as the case may be, to hear the accused in person or by any friend or counsel.

[2][(*5*) The commanding officer of a [3][ship] or the officer-in-charge of a naval academy may impose on any subordinate officer whilst under training such minor punishments, not higher than the punishment of severe reprimand or reprimand, as may, from time to time, be prescribed.]

(*1*) The Central Government may impose the punishment of forfeiture of time or seniority of not more than twelve months on any officer below the rank of commander.

(*2*) The Chief of the Naval Staff may impose the punishment of forfeiture of time or seniority of not more than six months on any officer below the rank of commander.

(*2A*) The Flag Officer Commanding-in-Chief of a naval command may, subject to regulations made under this Act, impose on any officer below the rank of commander one or more of the following punishments, namely:—

(*a*) forfeiture of seniority in rank of not more than three months;

(*b*) forfeiture of time for promotion of not more than three months;

(*c*) severe reprimand or reprimand.

(*3*) The commanding officer of a ship may subject to regulations made under this Act, impose the punishment of forfeiture of time or seniority of not more than three months on any subordinate officer.

95. Disciplinary Courts when may be constituted.—When an officer is, in time of war or during active service, alleged to have been guilty of a disciplinary offence, that is to say of a breach of sections 41, 47, 48, 49, 51, 52, 68 and 74 or of any of those sections read with section 75 or 76, the officer having the power to order a court-martial may, if he considers the offence to be of such a character as not to necessitate trial by court-martial, in lieu of ordering a court-martial, order a disciplinary court constituted as hereinafter mentioned.

96. Constitution and procedure of disciplinary courts.—(*1*) A disciplinary court shall be composed of not less than three nor more than five officers:

Provided that the majority of the officers including the president shall be officers of the executive branch of the naval service.

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1. Subs. Act, 48 of 1982, s. 5, for "and (*2*)" (w.e.f. 16-10-1982).
2. Ins. by Act 53 of 1974, s. 16 (w.e.f. 16-12-1974).
3. Subs. by s. 5, *ibid.,* for "training ship" (w.e.f. 16-10-1982).

(*2*) At least one of these officers composing the court shall be superior in rank to the officer under trial and in any case shall be of the rank of substantive or acting commander or of a higher rank.

(*3*) A disciplinary court shall have power to impose any punishment inferior to detention in the scale hereinbefore contained, but no greater punishment.

(*4*) The officers composing the disciplinary court shall be named by the authority ordering the same or by an officer empowered in this behalf by such authority.

(*5*) Subject to the provisions of the foregoing sub-sections, the procedure and practice of courts-martial provided by or under this Act shall apply to the procedure and practice of disciplinary courts subject to such modifications as may be prescribed.

97. Constitution of courts-martial.—(*1*) Courts-martial shall be constituted and convened subject to the provisions of the following sub-sections.

(*2*) The President, the Chief of the Naval Staff, or any officer empowered in this behalf by commission from the Chief of the Naval Staff shall have the power to order courts-martial for the trial of offences under this Act.

(*3*) Unless otherwise prescribed in respect of any specified port or station, an officer holding a commission from the Chief of the Naval Staff to order courts-martial shall not be empowered to do so if there is present at the place where such court-martial is to be held an officer superior in rank to himself and in command of one or more of the ships of the Indian Navy although such last mentioned officer may not hold a commission to order courts-martial and in such a case such last mentioned officer may order a court-martial although he does not hold a commission for the purpose.

(*4*) If an officer holding a commission from the Chief of the Naval Staff to order courts-martial, having the command of a fleet or squadron and being outside Indian waters die, be recalled, leave his station or be removed from his command, the officer upon whom the command of the fleet or squadron devolves and so from time to time the officer who shall have the command of the fleet or squadron, shall without any commission from the Chief of the Naval Staff have the same power to order courts-martial as the first mentioned officer was invested with.

(*5*) If an officer holding a commission from the Chief of the Naval Staff to order courts-martial and having the command of any fleet or squadron of the Indian Navy outside Indian waters shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron he may by commission under his hand empower in the first mentioned case, the commanding officer of the squadron or detachment ordered on such separate service and in the case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the second mentioned case, the senior officer of the ships of the Indian Navy on the division of the station from which he is absent, to order courts-martial during the time of such separate service or during his absence from that division of the station as the case may be, and every such authority shall continue in force until revoked or until the officer holding it returns to India or until he comes into the presence of a superior officer empowered to order courts-martial in the same squadron, detachment or division of station but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer and so from time to time as often as the case so requires.

(*6*) A court-martial shall consist of not less than five nor more than nine officers.

(*7*) No officer shall be qualified to sit as a member of a court-martial unless—

(*a*) he is subject to naval law,

(*b*) he is an officer of the Indian Navy of the rank of lieutenant or higher rank, and

(*c*) he is of or over twenty-one years of age.

(*8*) A prosecutor shall not be qualified to sit on the court-martial for the trial of the person he prosecutes.

(*9*) The officer ordering the court-martial, the officer who was the commanding officer of the ship to which the accused belonged at the time of the commission of the alleged offence and the officer investigating the offence shall not be qualified to sit on a court- martial for the trial of such accused.

(*10*) Subject to the provisions of sub-sections (*7*) to (*9*), officers of the Indian Navy shall be eligible to sit as members of a court-martial irrespective of the branch of the naval service to which they belong:

Provided that—

(*a*) the majority of the members of the court-martial, including the president, shall be officers of the executive branch of the naval service, and

(*b*) at trials for offences against sections 34, 35, 55, [1][55A, 55C] and 56, officers other than officers of the executive branch of the naval service shall not be eligible to sit.

(*11*) A court-martial shall not be deemed to be duly constituted unless the members thereof are drawn from at least two ships not being tenders, and commanded by officers of the rank of lieutenant or higher rank.

(*12*) The president of a court-martial shall be named by the authority ordering the same or by any officer empowered by such authority to name the president.

(*13*) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer and the other officers composing the court are of the rank of captain or of higher rank.

(*14*) No court-martial for the trial of a captain shall be duly constituted unless the president is a captain or of higher rank and

(*15*) No court-martial for the trial of a commander shall be duly constituted unless the president is a commander or of higher rank and two other members are commanders or officers of higher rank.

(*16*) No court-martial for the trial of a person below the rank of commander shall be duly constituted unless the president is a substantive or acting commander or of higher rank.

(*17*) No commander or lieutenant-commander or lieutenant shall be required to sit as a member of a court-martial when four officers of higher rank and junior to the president can be assembled at the place where the court-martial is to be held, but the regularity or validity of any court-martial or of the proceedings thereof shall not be affected by any commander, lieutenant-commander or lieutenant being required to sit or sitting thereon under any circumstances and when any commander, lieutenant-commander or lieutenant sits on any court- martial, the members of it shall not exceed five.

(*18*) Members of the court-martial other than the president shall be appointed, subject to the provisions of the foregoing sub-sections, in the manner provided in sub-section (*19*).

(*19*) Subject to the provisions of sub-section (*11*), the president shall summon all officers except such as are exempted under the provisions of sub-section (*20*), next in seniority to himself present at the place where the court-martial shall be held, to sit thereon until the number of nine or such other number not less than five as is attainable is complete.

(*20*) The officer convening the court-martial or the senior naval officer present at the place where the court-martial is to be held, may exempt by writing under his hand conveyed to the president of the court-martial any officer from attending as member on ground of sickness or urgent public duty.

(*21*) In this section references to specified ranks of officers shall, unless otherwise stated, be deemed to be references to substantive ranks and to include references to equivalent ranks in all branches of the naval service.

(*22*) When the naval forces are on active service, officers of the Indian Naval Reserve Forces subject to naval law shall be eligible to sit as members of courts-martial on the same basis and under the same conditions as officers of the Indian Navy.

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1. Ins. by Act 48 of 1982, s. 6 (w.e.f. 16-10-1982).

CHAPTER XIII

PROCEDURE

Procedure of courts-martial

98. Where courts-martial to be held.—A court-martial may be held ashore or afloat.

99. Trial judge advocate.—(*1*) Every court-martial shall be attended by a person (in this Act referred to as the trial judge advocate) who shall be either a judge advocate in the department of the Judge Advocate-General of the Navy or any fit person appointed by the convening officer:

Provided that in the case of a court-martial for the trial of a capital offence the trial judge advocate shall be a person nominated by the Judge Advocate-General of the Navy unless such trial is held outside Indian waters.

(*2*) The trial judge advocate shall administer oath to every witness at the trial and shall perform such other duties as are provided in this Act and as may be prescribed.

100. Courts-martial to be public.—The place in which a court-martial is held for the purpose of trying an offence under this Act shall be deemed to be an open court to which the public generally may have access, so far as the same can conveniently contain them:

Provided that, if the court is satisfied that it is necessary or expedient in the public interest or for the ends of justice so to do, the court may at any stage of the trial of any particular case order that the public generally or any portion thereof or any particular person shall not have access to, or be or remain in, the place in which the court is held.

101. Commencement of proceedings.—(*1*) As soon as the court has been assembled the accused shall be brought before it and the prosecutor, the person or persons, if any, defending the accused and the audience admitted.

(*2*) Except where the accused defends himself, he may be defended by such person or persons as may be prescribed.

(*3*) The trial judge advocate shall read out the warrant for assembling the court and the names of officers who are exempted from attending under sub-section (*20*) of section 97 together with the reasons for such exemption.

(*4*) The trial judge advocate shall read out the names of the officers composing the court and shall ask the prosecutor whether he objects to any of them.

(*5*) If the prosecutor shall have made no objection or after any objection made by the prosecutor has been disposed of, the trial judge advocate shall ask the accused if he objects to any member of the court.

102. Objections to members.—The following provisions shall apply to the disposal of objections raised by the prosecutor as well as the accused:—

(*a*) any member may be objected to on a ground which affects his competency to act as an impartial Judge; and the trial judge advocate may reject summarily without reference to the members of the court any objection not made on such ground; ‘

(*b*) objections to members shall be decided separately, those to the officer lowest in rank being taken first: provided that if the objection is to the President, such objection shall be decided first and all the other members whether objected to or not shall vote as to the disposal of the objection;

(*c*) on an objection being allowed by one-half or more of the officers entitled to decide the objection, the member objected to shall at once retire and his place shall be filled up before an objection against another member is taken up;

(*d*) should the president be objected to and the objection be allowed, the court shall adjourn until a new president has been appointed by the convening authority or by the officer empowered in this behalf by the convening authority; and

(*e*) should a member be objected to on the ground of being summoned as a witness and should it be found that the objection has been made in good faith and that the officer is to give evidence as to facts and not merely as to character, the objection shall be allowed.

103. Further objections.—(*1*) The trial judge advocate shall then ask the accused whether he has any further objections to make respecting the constitution of the court; and should the accused raise any such objection, it shall then be decided by the court, which decision shall be final and the constitution of the court-martial shall not be afterwards impeached and it shall be deemed in all respects to have been duly constituted.

(*2*) If the accused should have no further objection to make to the constitution of the court or if any objection is disallowed, the members and the trial judge advocate shall then make an oath or affirmation in the form set out in section 104.

104. Administering oath or affirmation.—(*1*) Before the court shall proceed to try the person charged, an oath or affirmation in the following form and manner shall be administered to the president and every member of the court-martial in the order of their seniority by the trial judge advocate:—

"I.....do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will duly and faithfully and to the best of my ability, knowledge and judgment administer justice according to law, without fear or favour, affection or ill-will, and that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law."

(*2*) The trial judge advocate shall then be sworn or affirmed by the president in the following form:—

"I.....do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office according to law, without fear or favour, affection or ill-will, and that I will not upon any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law."

105. Arraignment.—(*1*) When the court is ready to commence the trial, the trial judge advocate shall read out the charges and shall ask the accused whether he pleads guilty or not guilty.

(*2*) If the accused pleads guilty, then, before such plea is recorded, the trial judge advocate shall ensure that the accused understands the charge to which he has pleaded guilty and the difference of procedure which will result from the plea of guilty.

(*3*) If it appears from the accused's replies or from the summary of evidence prepared in the prescribed manner that he should not plead guilty, the trial judge advocate may advise the accused to withdraw his plea.

(*4*) If the court accepts the plea of guilty, it shall be recorded as the finding of the court and the court shall proceed to take steps to pass sentence unless there are other charges to be tried in which event the sentence shall be deferred until after the findings on such charges are given.

106. Opening of prosecution case.—(*1*) If the accused pleads not guilty or refuses to, or does not, plead or if he claims to be tried or if in the circumstances mentioned in sub-section (*3*) of section 105 withdraws the plea of guilty or if the court does not accept the plea of guilty, the court shall proceed to try the accused.

(*2*) The prosecutor shall open his case by reading the circumstantial letter prepared in accordance with the regulations made under this Act, reading from this Act or the Indian Penal Code (45 of 1860) or other law the description of the offence charged and stating shortly by what evidence he expects to prove the guilt of the accused.

(*3*) The prosecutor shall then examine his witnesses.

107. Calling of prosecution witness not in the original list.—No witness whose name was not included in the original list of witnesses supplied to the trial judge advocate and the accused in accordance with regulations made under this Act shall be called by the prosecutor unless the trial judge

advocate has given notice to the accused of the prosecutor's intention to call such witness and has supplied the accused with a summary of the evidence of such witness.

108. Swearing of interpreter and shorthand-writer.—(*1*) At any time during the trial, should the court think it necessary, an impartial person may be employed to serve as an interpreter and sworn or affirmed as such in the following manner:—

"I.....do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will to the best of my ability truly interpret and translate as I will be required to do touching the matter before this court-martial."

(*2*) During the trial, an impartial person shall be employed as a shorthand-writer and duly sworn or affirmed as such in the following manner:—

"I.....do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as I will be required, and when required, will deliver to the court a true transcript of the same."

109. Objection to interpreter or shorthand-writer.—(*1*) Before any person is sworn or affirmed as an interpreter or a shorthand-writer, the accused shall be asked if he objects to such person as not being impartial and the court shall decide the objection.

(*2*) The evidence given by a witness shall be read over to him by the shorthand-writer before the witness leaves the court, if so required by the court or the witness.

110. Swearing of witnesses.—(*1*) No witness shall be examined until he has been duly sworn or affirmed in the following manner:—

I.....do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that the evidence which I shall give before this court shall be the truth, the whole truth and nothing but the truth.".

(*2*) Every person giving evidence on oath or affirmation before a court-martial shall be bound to state the truth.

111. Plea of no case and defence of accused.—(*1*) When the examination of the witnesses for the prosecution is concluded, the accused shall be called on for his defence.

(*2*) Before entering on his defence, the accused may raise a plea of no case to answer.

(*3*) If such a plea is raided, the court will decide the plea after hearing the accused and the prosecutor and the advice of the trial judge advocate.

(*4*) If the court accepts the plea, the accused shall be acquitted on the charge or charges in respect whereof the plea has been accepted.

(*5*) If the court overrules the plea, the accused shall be called upon to enter on his defence.

(*6*) The trial judge advocate shall then inform the accused that he may give evidence as a witness on his own behalf should he desire to do so and should he make a request in writing to do so, but that he will thereby render himself liable to cross-examination.

(*7*) If the accused does not apply to give evidence, he may make a statement as to the facts of the case, and if he has no defence witnesses to examine as to facts, the prosecutor may sum up his case and the accused shall be entitled to reply.

(*8*) If the, accused or any one of the several accused applies to give evidence and there are no other witnesses in the case for the defence, other than witnesses as to character, then the evidence of such accused shall be recorded and if the accused so desires the witnesses as to character shall be examined and the prosecutor shall then sum up his case and the accused may reply.

(*9*) If the accused or any one of the accused adduces any oral evidence as to facts other than his own evidence, if any, the accused may then sum up his case on the conclusion of that evidence and the prosecutor shall be entitled to reply.

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112. Adjournment to view.—(*1*) Whenever the court thinks that it should view the place in which the offence charged is alleged to have been committed or any other place in which any other transaction material to the trial is alleged to have occurred, the court shall make an order to that effect and may then adjourn to the place to be viewed, along with the prosecutor and the accused and the person, if any, by whom the accused is represented.

(*2*) The court on completion of the view shall adjourn and reassemble in the court-room.

113. Summing up by the trial judge advocate.—When the case for the defence and the prosecutor's reply, if any, are concluded, the trial judge advocate shall proceed to sum up in open court the evidence for the prosecution and the defence and lay down the law by which the court is to be guided.

114. Duties of the trial judge advocate.—(*1*) At all trials by courts-martial it is the duty of the trial judge advocate to decide all questions of law arising in the course of the trial, and specially all questions as to the relevancy of facts which it is proposed to prove and the admissibility of evidence or the propriety of the questions asked by or on behalf of the parties; and in his discretion to prevent the production of inadmissible evidence whether it is or is not objected to by the parties.

(*2*) Whenever in the course of a trial it appears desirable to the trial judge advocate that arguments and evidence as to the admissibility of evidence or arguments in support of an application for separate trials or on any other points of law should not be heard in the presence of the court, he may advise the president of the court accordingly and the president shall thereupon make an order for the court to retire or direct the trial judge advocate to hear the arguments in some other convenient place.

115. Duties of the court.—It is the duty of the court to decide which view of the facts is true and then arrive at the finding which under such view ought to be arrived at.

116. Retirement to consider finding.—(*1*) After the trial judge advocate has finished his summing up, the court will be cleared to consider the finding.

(*2*) The trial judge advocate shall not sit with the court when the court is considering the finding, and no person shall speak to or hold any communication with the court while the court is considering the finding.

117. Announcement of the finding.—(*1*) When the court has considered the finding, the court shall be re-assembled and the president shall inform the trial judge advocate in open court what is the finding of the court as ascertained in accordance with section 124.

(*2*) The court shall give its findings on all the charges on which the accused is tried.

118. Drawing up of the finding.—(*1*) The trial judge advocate shall then draw up the finding as announced by the court.

(*2*) The finding so drawn up shall be signed by all the members of the court by way of attestation notwithstanding any difference of opinion there may have been among the members and shall be countersigned by the trial judge advocate.

(*3*) Where the finding on any charge is one of not guilty the court shall acquit the accused of that charge.

(*4*) If the accused is acquitted of all the charges, the court shall, after signing the findings as provided in sub-section (*2*), be dissolved.

(*5*) Neither the court nor the trial judge advocate shall announce in open court whether the finding was unanimous or not; but the president shall make a record of the division of voting on each finding without disclosing the vote or opinion of any particular member of the court-martial and such record shall be communicated to the trial judge advocate for transmission to the Judge Advocate-General of the Navy.

119. Evidence of character and previous convictions.—(*1*) If the accused is found guilty on any or all of the charges, the court before awarding punishment may call evidence as to the previous character and qualifications of the accused and in addition to any oral evidence of general character that may be

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adduced, shall take into consideration the following documents which shall be read by the trial judge advocate in open court:—

(*a*) for any officer—

(*i*) any entries against him relating to his previous convictions in the list of officers who have been tried by court-martial; and

(*ii*) any previous entries against him in the log of the ship to which he may have belonged when the offence or offences for which he is being tried were committed and also any documents, other than such entries in the log, of the nature of a definite censure by superior authority, which log and documents the prosecution is to produce; and

(*iii*) any certificate or other documents of character which the accused may produce;

(*b*) for a [1][sailor]—

(*i*) the entries against him in the conduct and offences record sheets prior to the date of the offence charged, but subsequent to his joining his present ship, with character assessed from the previous 31st day of December to the date of the offence for which he may be under trial but excluding all consideration of the latter;

(*ii*) his certificate of service; and

(*iii*) any entries against him relating to his previous convictions in the list of those who have been tried by court-martial.

(*2*) The accused may then make a statement in mitigation of punishment and lead any evidence of character if he has not already done so before the finding.

120. Consideration of the sentence.—(*1*) The Court shall then retire and consider and determine on the punishment proper to be inflicted in conformity with the finding, and all the members of the court, whether they have voted for an acquittal or not, shall vote on the question of what punishment is proper to be awarded for the offence of which the accused has been found guilty.

(*2*) The trial Judge advocate shall sit with the court while they are considering the sentence and assist the court in the determination of the sentence but shall not vote thereon.

121. Announcement of the sentence.—(*1*) When the court has decided on the sentence whether unanimously or by majority, the trial Judge advocate shall draw up the sentence in the prescribed form which shall be signed by every member of the court by way of attestation notwithstanding any difference of opinion there may have been among the members and shall be countersigned by the trial Judge advocate.

(*2*) The court shall then be reassembled and the accused brought in and the trial Judge advocate shall by direction of the court pronounce the sentence.

(*3*) The accused shall then be removed and the court dissolved.

122. Adjournment.—(*1*) A court-martial may, if it appears to the court that an adjournment desirable, be adjourned accordingly, but except where such an adjournment is ordered, shall sit from day to day with the exception of Sundays until the trial is concluded, unless prevented from so doing by stress of weather or unavoidable accident.

(*2*) The proceedings of a court-martial shall not, after the commencement of a trial, be delayed by the absence of a member:

Provided that not less than four members are present: and

Provided further that if any member is absent from any part of the trial, he shall not thereafter take any part in the proceedings.

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1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-1974).

123. Provisions relating to dissolution of courts-martial.—(*1*) A court-martial assembled under this Act shall be dissolved—

(*a*) when the number of members comprising the court is after the commencement of a trial reduced below four;

(*b*) by the prolonged illness of the president, trial judge advocate or the accused;

(*c*) by the death of the president or the trial judge advocate;

(*d*) on the making of a report under sub-section (*2*) of section 143.

(*2*) Whenever a court-martial is dissolved by virtue of sub-section (*1*), the accused may be retired.

124. Ascertaining the opinion of the court.—(*1*) Subject to the provisions of sub-sections (*2*) and (*3*), every question for determination by a court-martial shall be decided by the vote of the majority:

Provided that where there is an equality of votes, the decision most favourable to the accused shall prevail.

(*2*) The sentence of death shall not be passed on any offender unless four at least of the members present at the court-martial where the number does not exceed five, and in all other cases a majority of not less than two-thirds of the members present, concur in the sentence.

(*3*) Where in respect of an offence, the only punishment which may be awarded is death, a finding that a charge for such offence is proved shall not be given unless four at least of the members present at the court-martial where the number does not exceed five, and in all other cases a majority of not less than two-thirds of the members present, concur in the finding.

125. Finding that the offence was committed with intent involving less degree of punishment.—Where the amount of punishment for any offence depends upon the intent with which it has been committed and any person is charged with having committed such an offence with an intent involving a greater degree of punishment, a court-martial may find that the offence was committed with an intent involving less degree of punishment and award such punishment accordingly.

126. Alternative findings.—If the accused is charged with one offence and it appears in evidence that he committed a different offence for which he might have been charged under section 91, he may be convicted of the offence which he is shown to have committed although he was not charged with it.

127. Finding lesser offence proved on charge of greater offence.—(*1*) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence although he was not charged with it.

(*2*) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he was not charged with it.

(*3*) When a person is charged with an offence, he may be convicted of an attempt to commit such an offence, although the attempt is not separately charged.

128. Transmission of proceedings to the Judge Advocate General of the Navy.—The trial Judge advocate shall transmit in accordance with the prescribed procedure with as much expedition as may be, the original proceedings or a complete and authenticated copy thereof and the original sentence of every court-martial attended by him to the Judge Advocate General of the Navy to be dealt with by him in accordance with the provisions of Chapter XV.

129. Right of accused to copy of proceedings and sentence.—Every person tried by a court-martial and convicted shall be entitled on demand to one copy of the proceedings and sentence of such court-martial free of cost but no such demand shall be allowed after the lapse of one year from the date of the final decision of such court.

Rules as to evidence

130. Application of the Evidence Act.—Subject to the provisions of this Act, the Indian Evidence Act, 1872 (1 of 1872), shall apply to all proceedings before a court-martial.

131. Accused competent witness for defence.—A person of an offence before a court-martial shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that—

(*a*) he shall not be called as a witness except on his own request in writing; or

(*b*) his failure to give evidence shall not be made the subject of any comment by any of the parties or the court or give rise to any presumption against himself or any person charged together with him at the same trial.

132. Judicial notice.—A court-martial may take judicial notice of any matter within the general naval, army or air force experience and knowledge of the members.

133. Presumption as to certain documents.—(*1*) Whenever it is necessary for the purposes of either the prosecution or the defence to prove the contents of any voucher, receipt, account, muster, ship's book, letter, signal, telegram or other document made or kept in pursuance of any Act of the legislature, any regulations framed under this Act or of the custom of the service, a copy of the same purporting to be signed and certified as a correct copy by the officer for the time being commanding the ship in which the same was made or kept or by a Secretary to the Central Government, may be received as evidence of such document and of the matters, transactions and accounts therein recorded.

(*2*) A Navy List or Gazette or other official document purporting to be published by authority of the Central Government or the Chief of the Naval Staff shall be evidence of the status and rank of officers therein mentioned and of any appointment held by such officers until the contrary is proved

(*3*) Where it is shown that a person is borne on the books of a ship of the Indian Navy, such fact shall be evidence that such person is subject to naval law until the contrary is proved.

Explanation.— In this section, the term "books of a ship" shall include any official book, document or list purporting to contain the name or names of persons appointed to the ship.

(*4*) Where any person subject to naval law is being tried on a charge of desertion, improperly leaving his ship, or absence without leave and such person has surrendered himself into custody of or has been apprehended by any person subject to naval law or by a person subject to the law relating to the Government of the regular Army or the Air Force, a certificate purporting to be signed by such person and stating the fact, date and place of such surrender or apprehension shall be evidence of the matters so stated unless the contrary is proved.

(*5*) Where any person subject to naval law is being tried on a charge of desertion, improperly leaving his ship, or absence without leave and such person has on arrest or surrender been taken to a police station, a certificate purporting to be signed by the officer-in-charge of the station and stating the fact, date and place of such surrender or apprehension shall be evidence of the matters stated unless the contrary is proved.

[1][(*6*) Any document purporting to be a report under the hand of:—

(*a*) any Chemical Examiner or Assistant Chemical Examiner to the Government;

(*b*) the Chief Inspector of Explosives;

(*c*) the Director of Finger Print Bureau;

(*d*) the Director of Haffkeine Institute, Bombay;

(*e*) the Director, Deputy Director or Assistant Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory;

(*f*) the Serologist to the Government,

upon any matter or thing duly submitted to him for examination or analysis, may be used an evidence in any proceeding under this Act.]

1. Subs. by Act 23 of 2005, s. 5, for sub-section (*6*) (w.e.f. 23-6-2005).

(*7*) The statement of a naval, army or air force medical officer taken and attested by the commanding officer of a ship or establishment may be given in evidence in any proceeding under this Act:

Provided that the court may, if it thinks fit, and shall if so required by the prosecutor or the accused, summon and examine such medical officer as to the subject-matter of his statement.

(*8*) If it is proved that an offender under this Act has absconded and that there is no immediate prospect of arresting him, the commanding officer or other prescribed person may, in his absence, examine any person who might appear to him to be acquainted with the case and record their depositions on oath and any such deposition may on the arrest of such person be used in evidence against him in any proceeding under this Act, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable.

134. Summoning of witnesses.—(*1*) Every person who may be required to give evidence or produce a document before a court-martial shall be summoned in the prescribed manner in writing under the hand of the Judge Advocate General of the Navy or the trial judge advocate.

(*2*) Every person who may be required to give evidence before a commanding officer or the officer preparing a summary of evidence in accordance with the regulations made under this Act or before a board of inquiry shall be summoned in the prescribed manner by writing under the hand of the Judge Advocate General of the Navy or the senior officer in the station or such other officer prescribed in this behalf.

(*3*) In the case of a witness subject to naval law or to the law relating to the Government of the regular Army or the Air Force, the summons shall be served in the manner prescribed.

(*4*) In the case of any other witness, the summons shall be served either in the prescribed manner, or it shall be sent to the magistrate within whose jurisdiction the witness may be or resides and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(*5*) When a witness is required to produce any particular document or thing in his possession or power, the summons shall describe it with reasonable precision.

(*6*) Every person not subject to naval law who may be summoned as aforesaid shall be allowed and paid such reasonable expenses as may be prescribed.

(*7*) Nothing in this section shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or to apply to any document in the custody of the postal or telegraph authorities.

135. Commissions for examination of witnesses.—(*1*) Whenever in the course of a trial by court-martial, it appears to the trial judge advocate that the examination of a witness is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, the trial judge advocate may dispense with such attendance and may apply to the Judge Advocate General of the Navy to issue a commission to [1][any metropolitan magistrate or judicial magistrate of the first class] within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(*2*) The trial in such an event may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

(*3*) The Judge Advocate General of the Navy on receipt of an application under sub-section (1) may, if he thinks fit, issue a commission to the [2][metropolitan magistrate or judicial magistrate of the first class or an authority exercising the powers equivalent to those of a judicial magistrate of the first class under the Code of Criminal Procedure, 1973 (2 of 1974),] for the examination of the witness.

1. Subs. by Act 48 of 1982, s. 7, for "any district magistrate or a magistrate of the first class" (w.e.f. 16-10-1982).
2. Subs. by s. 7, *ibid.,* for certain words and figures (w.e.f. 16-10-1982).

(*4*) The magistrate or authority to whom the commission is issued or [1][if he is a Chief Metropolitan Magistrate or a Chief Judicial Magistrate, he or such metropolitan magistrate or judicial magistrate of the first class as is appointed by him in this behalf] shall proceed to such place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner and may for this purpose exercise the same powers as in trials of warrant cases under the [2][Code of Criminal Procedure, 1973 (2 of 1974)], or of any corresponding law in force at the place where the evidence is recorded.

136. Examination of witnesses on commission.—(*1*) Where a commission is issued under the provisions of section 135, the prosecutor and the accused may respectively forward any interrogatories in writing which the trial judge advocate may think relevant to, the issue and the magistrate or authority to whom the commission is directed or to whom the duty of executing such commission has been delegated shall examine the witness upon such interrogatories.

(*2*) The prosecutor and the accused may appear before such magistrate or authority by counsel or, except in the case of an accused person in custody, in person, and may examine, cross-examine arid re-examine, as the case may be, the said witness.

(*3*) After a commission issued under section 135 has been duly executed, it shall be returned together with the deposition of the witness examined thereunder to the Judge Advocate General of the Navy who issued the commission.

(*4*) On receipt of the commission and the deposition returned under sub-section (*3*), the Judge Advocate General of the Navy shall forward the same to the trial judge advocate at whose instance the commission was issued.

(*5*) The commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused and may subject to all just exceptions be read in evidence in the case by either the prosecutor or the accused and shall form part of the proceedings of the trial.

(*6*) Any deposition so taken shall be received in evidence at any subsequent stage of the trial whether before the same court or, if the said court is dissolved meanwhile, before another court convened for the trial of the accused in respect of the same charges.

137. Power to summon and examine material witnesses.—(*1*) The trial judge advocate may, at any stage of the trial, summon any person as a witness or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the trial judge advocate shall summon and examine or recall and re-examine any such person if his evidence appears to the court or to the trial judge advocate as essential to the just decision of the case.

(*2*) Summons to the witnesses shall be issued as provided under this Act.

Compensation to aggrieved persons out of fine

138. Power of court to pay compensation out of fine.—(*1*) Whenever a court-martial imposes a fine as a punishment, the court may when passing judgment order the whole or any part of the fine recovered to be applied,—

(*a*) in the payment to any person aggrieved as compensation for any loss or injury caused by the offence;

(*b*) When any person is convicted of any civil offence which includes theft, criminal misappropriation, criminal breach of trust or cheating or of having dishonestly received or retained or of having voluntarily assisted in disposing of stolen property knowing or having reason to believe the same to be stolen property, in compensating any *bona fide* purchaser of the property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(*2*) No such payment or compensation shall, however, be made before the expiry of fifteen days from the date of the sentence, and when a petition is presented against the conviction or sentence until the said petition is disposed of Power of courts-martial respecting contempt, etc.

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1. Subs. by Act 48 of 1982, s. 7, for certain words (w.e.f. 16-10-1982).
2. Subs. by s. 7, *ibid.,* for "Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 16-10-1982).

Power of courts-martial respecting contempt, etc.

139. Summary punishment for contempt of court by person subject to naval law.—When any person subject to naval law commits any offence as is described in section 69 in the presence of or in relation to a proceeding before a court-martial such court-martial may punish the offender summarily by imprisonment for a term which may extend to three months or such other less punishment as may be awarded for that offence under section 69.

140. Summary punishment for contempt of court by person not subject to naval law.—When any person not subject to naval law commits an offence as is described in section 165 in the presence of a court-martial, such court-martial may take such person into custody and at any time before the rising of the court on the same day, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees or in default of payment to simple imprisonment for a term which may extend to one month, unless such fine shall be sooner paid.

141. Powers of court-martial when certain offences are committed by persons not subject to naval law.—When any such offence as is described in section 165 of this Act, or section 193, section 194, section 195, section 196, section 199, section 200, section 228, section 463 or section 471 of the Indian Penal Code (45 of 1860) is committed by any person not subject to naval law in or in relation to a proceeding before a court-martial, such court-martial or the officer ordering the same if such court-martial is dissolved, may exercise the powers [1][under section 340 of the Code of Criminal Procedure, 1973 (2 of 1974),] as if it or he were a criminal court within the meaning of that section.

142. Powers of courts-martial and disciplinary courts in relation to proceedings under this Act.—Any trial by a court-martial or disciplinary court under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860), and the court-martial or disciplinary court shall be deemed to be a court within the meaning of [2][sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).]

Lunacy of accused

143. Accused found insane during trial.—(*1*) Where it appears in the course of the trial by court-martial of any person, charged with an offence that such person is insane, the court shall find specially the fact of his insanity and shall order such person to be kept in strict custody in such place and in such manner as the court may deem fit until the directions of the Central Government thereupon are known.

(*2*) Every such case shall be reported by the court to the convening authority for orders of the Central Government and it shall be lawful for the Central Government to give orders for the safe custody of such person in such place and in such manner as the Central Government may deem fit.

(*3*) Whenever on the receipt of a report from the Central Government or otherwise the convening authority considers that such person is capable of making his defence, the convening authority may take steps to convene a court-martial for the trial of such person.

144. Lunacy of the accused at the time of offence.—(*1*) Whenever any person subject to naval law is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall specifically state whether he committed the act or not.

(*2*) Whenever the finding made under sub-section (*1*) states that the accused person committed the act alleged, the court-martial shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be detained in safe custody in such place and in such manner as may be prescribed and shall report the action taken to the officer convening the court.

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1. Subs. by Act 48 of 1982, s. 8, for "under section 476 of the Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 16-10-1982).
2. Subs by s. 9, *ibid.,* for "under sections 480 and 482 of the Code of Criminal Procedure Code, 1898 (5 of 1898)" (w.e.f. 16-10-1982).

(*3*) The officer convening the court shall then report the case for the orders of the Central Government and shall take necessary steps to detain the said person in safe custody pending receipt of such orders.

(*4*) The Central Government may on receipt of a report under sub-section (*3*) order the accused person to be detained in a mental hospital or other suitable place of safe custody.

Disposal of property

145. Disposal of property pending trial.—When any property regarding which an offence appears to have been committed or which appears to have been used for the commission of an offence is produced before a court-martial, the court may make such order as it thinks fit for the proper custody such property pending the conclusion of the trial and if the property is subject to speedy or natural decay may after recording such evidence as it thinks necessary order it to be sold or otherwise disposed of.

146. Disposal of property regarding which offence is committed.—(*1*) When the trial before any court-martial is concluded, the court may make such order as it thinks fit for the disposal by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise of any property or document produced before it or in its custody or regarding which an offence appears to have been committed or which has been used for the commission of any offence:

Provided that except in the case of property which is subject to speedy or natural decay such property or document shall, if so required by regulations, made under this Act, be kept in custody until the orders of the Chief of the Naval Staff are known.

(*2*) An order under sub-section (*1*) shall not be carried out for one month, unless the property is subject to speedy or natural decay.

(*3*) When an order under this section cannot be conveniently carried out by persons in the naval service, a copy of such order certified by the Chief of the Naval Staff or an officer prescribed in this behalf, may be sent to a magistrate within whose jurisdiction the property is for the time being situate and such magistrate shall thereupon take steps to cause the order to be carried into effect as if it were an order passed by him.

Explanation.— In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged and anything acquired by such conversion or exchange whether immediately or otherwise.

CHAPTER XIV

EXECUTIVE OF SENTENCES

147. Form of sentence of death.—In awarding a sentence of death, a court-martial shall in its discretion direct that the offender shall suffer death by being hanged by the neck until he be dead or shall suffer death by being shot to death.

148. Interim custody until execution of sentences of death.—A person sentenced to death may be detained in naval custody or may be removed to a civil prison to be kept in custody until further orders be received from the Central Government, the Chief of the Naval Staff or the officer ordering the court-martial by which he was sentenced to death or other prescribed officer and the order in the prescribed form of the Central Government, the Chief of the Naval Staff or the convening authority or such officer shall be sufficient warrant for detaining the person in custody.

149. Execution of sentences of death.—(*1*) When a sentence of death is to be executed, the Chief of the Naval Staff or the convening authority or the prescribed officer shall give directions as to the time, place and manner in which sentence is to be carried out and the order of such officer or authority in the prescribed form shall be sufficient warrant for the execution of such sentence.

(*2*) There shall be attached to the prescribed form an order of the Central Government certifying the confirmation of the sentence by the Central Government in all cases where such confirmation is

necessary; and where such confirmation is not necessary, a certificate of the Chief of the Naval Staff or other prescribed officer stating that such confirmation is not necessary.

150. Place of imprisonment and detention.—(*1*) Every term of imprisonment whether imprisonment was awarded as an original or commuted punishment may be served in a naval prison, naval detention quarters or in any civil prison, house of correction or military or air force prison or detention barracks.

(*2*) Every term of detention whether the detention was awarded as an original or commuted punishment may be served in any naval detention quarters or army or air force detention barracks.

(*3*) Where in pursuance of this Act, a person is sentenced to imprisonment or detention or has his sentence commuted to imprisonment or detention, the order in the prescribed form of the Central Government or the Chief of the Naval Staff or the officer ordering the court-martial by which such person was sentenced or the senior officer present in port or, if he was sentenced by the commanding officer of a ship, or other officer empowered under this Act to exercise like powers, the order in the prescribed form of such commanding officer or other officer, shall be a sufficient warrant for the sending of such person to the place of imprisonment or detention, as the case may be, thereto undergo the sentence according to law, or until he reaches such place of imprisonment or detention for detaining him in naval custody or in the case of a person sentenced to imprisonment, in any civil prison or place of confinement.

151. Commencement of sentence.—(*1*) Subject to the provisions of [1][sub-sections (*2*) and (*3*)] every term of imprisonment or detention awarded in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded.

(*2*) Where by reason of a ship being at sea or off a place at which there is no proper prison or naval detention quarters, a sentence of imprisonment or detention, as the case may be, cannot be duly executed, then subject as hereinafter mentioned, an offender under the sentence of imprisonment or detention, as the case may be, may be sent with all reasonable speed to some place at which there is a proper prison or naval detention quarters or in the case of an offender under sentence of detention to some place at which there are some naval detention quarters in which the sentence can be duly executed; and on arrival there, the offender shall undergo his sentence in like manner as if the date of such arrival were the day on which the sentence was awarded and notwithstanding that in the meanwhile he has returned to his duty or become entitled to his discharge; and the term of imprisonment or detention, as the case may be, shall be reckoned accordingly, subject however to the deduction of any time during which he has been kept in confinement in respect of the said offence.

[2][(3) Whenever any offender is sentenced by a court-martial to a term of imprisonment, in pursuance of this Act, not being imprisonment in default of payment of fine, the period spent by him in civil or naval custody during investigation, inquiry or trial of the same case, and before the date of order of such sentence, shall be set off against the terms of imprisonment imposed upon him, and the liability of such offender to undergo imprisonment on such order of sentence shall be restricted to the remainder, if any, of the term of imprisonment imposed upon him.]

152. Imprisonment of offender already under sentence.—Whenever a sentence shall be passed by a court-martial on an offender already under sentence either of detention or imprisonment passed upon him under this Act for a former offence, the court may award a sentence of detention or imprisonment for the offence for which he is under trial to commence at the expiration of the sentence of detention or imprisonment to which he has been previously sentenced:

Provided that so much of any term of detention imposed on a person by a sentence in pursuance of this section as will prolong the total term of detention beyond two years shall be deemed to be remitted.

153. Change of place of confinement.—Whenever it is deemed expedient, it shall be lawful for the Central Government, the Chief of the Naval Staff or senior officer present, by an order in writing in the prescribed form, from time to time to change the place of confinement of any offender imprisoned or

1. Subs. by Act 23 of 2005, s. 6, for "sub-section (*2*)" (w.e.f. 23-6-2005).
2. Ins. s. 6, *ibid*. (w.e.f. 23-6-2005).

sentenced to be imprisoned or detained in pursuance of this Act or of any offender undergoing or sentenced to undergo detention; and the gaoler or other person having the custody of such offender shall immediately on the receipt of such order remove such offender to the gaol, prison or house of correction or, in the case of an offender undergoing or sentenced to undergo detention, to the naval detention quarters mentioned in the said order, or shall deliver him over to naval custody for the purpose of the offender being removed to such prison or naval detention quarters, and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction or naval detention quarters shall, upon being furnished with such order of removal, receive into his custody and shall confine pursuant to such sentence or order every such offender.

154. Discharge or removal of prisoners.—Whenever any offender is undergoing imprisonment or detention in pursuance of this Act, it shall be lawful for the Central Government or the Chief of the Naval Staff, or where an offender is undergoing imprisonment or detention by order of his commanding officer, for such commanding officer or the Central Government or the Chief of the Naval Staff, to give an order in writing in the prescribed form directing that the offender be discharged; and it shall also be lawful for the Central Government and the Chief of the Naval Staff, by order in writing in the prescribed form, to direct that any such offender be delivered over to naval custody for the purpose of being brought before a court-martial, either as a witness or for trial or otherwise, and such offender shall accordingly, on the production of any such order, be discharged, or be delivered over to such custody.

155. Time of detention in naval custody.—The time during which any offender under sentence of imprisonment or detention is detained in naval custody shall be reckoned as imprisonment or detention under his sentence for whatever purpose he is so detained; and the governor, gaoler, keeper or superintendent who shall deliver over any such offender shall again receive him from naval custody, so that he may undergo the remainder of his punishment.

156. Removal of insane prisoners.—If any person imprisoned or undergoing detention by virtue of this Act shall become insane, and a certificate to that effect shall be given by two physicians or surgeons, the Central Government shall, by warrant in the prescribed form, direct the removal of such person to such asylum or other proper receptacle for insane persons in India as it may judge proper for the unexpired term of his imprisonment or detention; and if any such person shall in the same manner be certified to be again of sound mind, the Central Government may issue a warrant in the prescribed form for his being removed to such prison or place of confinement or in the case of a person sentenced to detention, such naval detention quarters as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly.

157. Naval prisons and naval detention quarters.—The Central Government may set apart any buildings or vessels or any parts thereof as naval prisons or naval detention quarters and any buildings, vessels or parts of buildings or vessels so set apart as naval prisons or naval detention quarters, as the case may be, shall be deemed to be naval prisons or naval detention quarters respectively within the meaning of this Act.

158. Execution of sentence of fine.—When a sentence of fine is imposed under this Act by a court-martial or disciplinary court, the officer ordering the court-martial or disciplinary court may transmit a copy of the order imposing the fine duly certified under his hand to any magistrate in India, and such magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the [1][Code of Criminal Procedure, 1973(2 of 1974),] or any law corresponding thereto in force in the State of Jammu and Kashmir* as if it were a sentence of fine imposed by such magistrate.

159. Power to make regulations in respect of naval prisons and detention quarters.—(*1*) The Central Government may, by notification in the Official Gazette, make regulations providing,—

(*a*) for the government, management and regulation of naval prisons and detention quarters;

(*b*) for the appointment and removal and powers of inspectors, visitors and officers thereof;

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1. Subs. by Act 48 of 1982, s. 10, for "Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 16-10-1982).

*. *Vide* notifn. No. S.O. 3912(E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

(*c*) for the food, bedding and clothing of prisoners or persons undergoing detention therein;

(*d*) for the labour of such prisoners or persons therein and for enabling such prisoners or persons to earn by special industry and good conduct remission of a portion of their sentence; and

(*e*) for the care of such prisoners or persons, their safe custody and the maintenance of good order and discipline among them and the punishment by personal correction, restraint or otherwise of offences committed by such prisoners or persons.

(*2*) The regulations to be made under this section may apply to naval prisons or detention quarters any of the provisions of the Prisons Act, 1894 (9 of 1874), and rules made thereunder, imposing punishments on any persons not being prisoners or relating to the duties of gaolers, medical officers and other officers of the prisons.

(*3*) The regulations to be made under this section shall not authorise corporal punishment to be inflicted for any offence.

CHAPTER XV

JUDICIAL REVIEW OF COURTS-MARTIAL PROCEEDINGS

160. Judicial review by the Judge Advocate General of the Navy.—(*1*) All proceedings of trials by court-martial or by disciplinary courts shall be reviewed by the Judge Advocate General of the Navy either on his own motion or on application made to him within the prescribed time by any person aggrieved by any sentence or finding, and the Judge Advocate General of the Navy shall transmit the report of such review together with such recommendations as may appear just and proper to the Chief of the Naval Staff for his consideration and for such action as the Chief of the Naval Staff may think fit.

(2) Where any person aggrieved has made an application under sub-section (1), the Judge Advocate General of the Navy may, if the circumstances of the case so require, give him an opportunity of being heard either in person or through a legal practitioner or an officer of the Indian Navy.

161. Consideration by the Chief of the Naval Staff.—(*1*) On receipt of the report and recommendations if any, under section 160, the Chief of the Naval Staff shall in all cases of capital sentence and in all cases where the court-martial is ordered by the President, and may in other cases transmit the proceedings and the report to the Central Government together with such recommendations as he may deem fit to make.

(*2*) Nothing in section 160 or this section shall authorise the Judge Advocate General of the Navy or the Chief of the Naval Staff to make any recommendation for setting aside, or the Central Government to set aside, an order of acquittal passed under this Act.

CHAPTER XVI

MODIFICATIONS OF FINDINGS AND SENTENCES, PARDONS AND COMMUTATION, REMISSION AND SUSPENSION OF SENTENCES

162. Petitions to the Central Government or Chief of the Naval Staff against findings or sentences.—Any person subject to naval law who considers himself aggrieved by a finding or sentence of any court-martial may present a petition to the Central Government or to the Chief of the Naval Staff, and the Central Government or the Chief of the Naval Staff, as the case may be, may pass such order thereon as may be thought fit.

163. Powers of Central Government and the Chief of the Naval Staff in respect of findings and sentences.—(*1*) Where any person is tried under the provisions of this Act, the Central Government or the Chief of the Naval Staff, may, in the case of a conviction,—

(*a*) set aside the finding and sentence and acquit or discharge the accused or order him to be retried, or

(*b*) alter the finding, maintaining the sentence (provided that such sentence may be legally passed on the altered finding), or

(*c*) with or without altering the finding, reduce the sentence or commute the punishment awarded for any punishment inferior in scale, or

(*d*) either with or without conditions, pardon the person or remit the whole or any part of the punishment awarded, or

(*e*) either with or without conditions, release the person on parole:

Provided that a sentence of imprisonment shall not be commuted for a sentence of detention for a term exceeding the term of imprisonment awarded, and a sentence of dismissal with disgrace not accompanied by a sentence of imprisonment shall not be commuted for a sentence of detention:

Provided further that nothing in this section shall authorise the Central Government or the Chief of the Naval Staff to enhance the sentence.

(*2*) Any sentence modified under the provisions of sub-section (*1*) shall be carried into execution as if it had been originally passed.

(*3*) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is in the opinion of the authority which granted the pardon, release or remission not fulfilled, such authority may cancel the pardon or release or remission and thereupon the sentence awarded shall be carried into effect as if such pardon, release or remission had not been granted:

Provided that in the case of a person sentenced to imprisonment or detention such person shall undergo only the unexpired portion of the sentence.

[1][**163A. Provision relating to parole.—**Where any person is tried under the provisions of this Act, the Central Government or the chief of the Naval Staff or the Flag Officers commanding-in-Chief of the Naval Commands may in the case of conviction either with or without conditions release the person on parole.]

164. Suspension of sentences.—(*1*) Where a person has been sentenced to imprisonment or detention, the Central Government or the officer who by virtue of the foregoing section or sub-section (*3*) of section 150 has power to issue an order of committal (hereinafter in this section referred to as "the committing authority") may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal is issued, and in such case—

(*a*) notwithstanding anything in this Act, the term of the sentence shall not be reckoned as commencing until an order of committal is issued;

(*b*) the case may at any time, and shall at intervals of not more than three months, be reconsidered by the Central Government or committing authority or the prescribed officer, and if on any such reconsideration it appears to the Central Government or committing authority or such prescribed officer that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, the Central Government or committing authority or such prescribed officer shall remit the whole or any part of it;

(*c*) subject to regulations made under this Act, the Central Government or the committing authority or such prescribed officer may at any time whilst the sentence is suspended issue an order of committal and thereupon the sentence shall cease to be suspended;

(*d*) where a person subject to naval law, whilst a sentence on him is so suspended, is sentenced to imprisonment or detention for any other offence then, if he is at any time committed either under the suspended sentence or under any such subsequent sentence, and whether or not any such subsequent sentence has also been suspended, the committing authority may direct that the two sentences shall run either concurrently or consecutively, so, however, as not to cause a person to undergo detention for a period exceeding the aggregate of two consecutive years.

(*2*) When a person has been sentenced to imprisonment or detention and an order of committal has been issued, the Central Government or the committing authority, or prescribed officer may order the sentence to be suspended, and in such cases the person whose sentence is suspended shall be discharged and the currency of the sentence shall be suspended until he is again committed under the same sentence,

1. Ins. by Act 23 of 2005, s. 8 (w.e.f. 23-6-2005).

and the provisions of clauses (*b*), (*c*) and (*d*) of sub-section (*1*) shall apply in like manner as in the case where a sentence has been suspended before an order of committal has been issued.

(*3*) Where a sentence is suspended under this section, whether before or after committal, the Central Government or, subject to regulations made under this Act, the committing authority or officer by whom the sentence is suspended may, direct that any penalty which is involved by the punishment of imprisonment or detention either shall be or shall not be remitted or suspended.

CHAPTER XVII

OFFENCES IN RELATION TO COURT-MARTIAL, DISCIPLINARY COURTS AND PRISONS

165. Offences by persons not subject to naval law in relation to courts-martial and disciplinary court.—Every person not subject to naval law, who,—

(*a*) being duly summoned or ordered to attend as a witness before a court-martial or disciplinary court fails to attend without due cause, or

(*b*) refuses to take an oath or make an affirmation legally required by a court-martial or disciplinary court to be taken or made, or

(*c*) being sworn or affirmed, refuses to answer any questions put by or before a court-martial or disciplinary court, which he is in law bound to answer, or

(*d*) refuses to produce or deliver up a document in his power which the court-martial or disciplinary court may legally demand, or

(*e*) is guilty of contempt of court-martial or disciplinary court,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

166. Penalties for aiding escape or attempt to escape of prisoners and for breach of prison regulations.—(*1*) Every person, who,—

(*a*) conveys or causes to be conveyed into any naval prison or naval detention quarters any arms, tools, or instruments, or any mask or other disguise to facilitate the escape of any prisoner or person undergoing detention, or

(*b*) by any means whatever aids any prisoner or person undergoing detention to escape or in an attempt to escape from such prison or naval detention quarters, whether an escape be actually made or not, shall be punished with imprisonment for a term which may extend to fourteen years.

(*2*) Every person who brings or attempts to bring into a naval prison or naval detention quarters, in contravention of regulations made under this Act, any spirituous or fermented liquor, shall for every such offence be punished with a fine not exceeding two hundred rupees and not less than one hundred rupees.

(*3*) Every person, who,—

(*a*) brings into a naval prison or naval detention quarters or to or for any prisoner or person undergoing detention, without the knowledge of the officer having charge or command thereof, any money, clothing, provisions, tobacco, letters, papers, or other articles not allowed by the rules of the prison or naval detention quarters, to be in the possession of a prisoner or person undergoing detention, or

(*b*) throws into the said prison or naval detention quarters, any such articles, or by desire of any prisoner or person undergoing detention, without the sanction of the said officer carried out of the prison or naval detention quarters any of the articles aforesaid,

shall for every such offence be punished with a fine not exceeding two hundred rupees.

(*4*) Every person, who,—

(*a*) interrupts any officer of a naval prison or naval detention quarters in the execution of his duty, or

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(*b*) aids or abets any person to assault, resist, or interrupt any such officer, shall for every such offence be punished with imprisonment which may extend to two years, or with fine, or both.

(*5*) Every fine recovered under the foregoing sub-sections of this section shall be applied as the Central Government may direct notwithstanding any law, charter, or custom to the contrary.

167. Penalty as regards gaolers, etc.—Every governor, gaoler, and keeper of any prison, gaol, or house of correction or of any naval detention quarters, and every person having the charge of command of any place, ship, or vessel for imprisonment, who shall without lawful excuse, refuse or neglect to receive or confine, remove, discharge, or deliver up any offender against the provisions of this Act, or any of them, shall incur for every such refusal or neglect a penalty not exceeding one thousand rupees and every such penalty shall be applied as the Central Government may direct notwithstanding any law, charter, or custom to the contrary.

CHAPTER XVIII

JUDGE ADVOCATE GENERAL OF THE NAVY AND OFFICERS OF HIS DEPARTMENT

168. Appointment of the Judge Advocate General of the Navy and his subordinate officers.—(*1*) There shall be appointed by the Central Government a Judge Advocate General of the Navy and as many judge advocates in the department of the Judge Advocate General of the Navy as the Central Government may deem necessary.

(*2*) Out of the judge advocates so appointed, the Central Government may designate any one to be the Deputy Judge Advocate General of the Navy.

(*3*) A person shall not be qualified for appointment as Judge Advocate General of the Navy unless he—

(*a*) is a citizen of India, and

(*b*) has for at least ten years held a judicial office in the territory of India, or

(*c*) has for at least ten years been an advocate of a High Court or two or more such courts in succession

[1][Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do in the exigencies of service, relax, for reasons to be recorded in writing, the qualification specified in clause (*b*) or clause (*c*) in respect of any person.]

(*4*) A person shall not be qualified for appointment as Deputy Judge Advocate General of the Navy unless he—

(*a*) is a citizen of India, and

(*b*) has for at least seven years held a judicial office in the territory of India, or

(*c*) has for at least seven years been an advocate of a High Court or two or more such courts in succession.

[1][Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do in the exigencies of service, relax, for reasons to be recorded in writing, the qualification specified in clause (*b*) or clause (*c*) in respect of any person.]

(*5*) A person shall not be qualified for appointment as a judge advocate unless he—

(*a*) is a citizen of India, and

(*b*) is qualified for enrolment as an advocate or a leader of a High Court.

Explanation.—For the purposes of this section,—

(*a*) in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person has held judicial office after he became an advocate;

1. Ins by Act 53 of 1974, s. 17 (w.e.f. 16-12-1974).

(*b*) in computing the period during which a person has held judicial office in the territory of India or been an advocate of a High Court, there shall be included any period before the commencement of the Constitution during which he has held judicial office in any area which was comprised before the 15th day of August, 1947, within India as defined in the Government of India Act, 1935, or has practised as an advocate of any High Court in any such area as the case may be;

(*c*) the expression "judicial office" shall be deemed to include the office of the Judge Advocate of the Fleet or any of his deputies or assistants and any other legal or judicial office in the department of the Judge Advocate of the Fleet held before the commencement of this Act, and the office of the Judge Advocate General of the Navy or of a judge advocate held after the commencement of this Act.

169. Functions of the Judge Advocate General of the Navy.—It shall be the duty of the Judge Advocate General of the Navy to perform such duties of a legal and judicial character pertaining to the Indian Navy as may from time to time be referred or assigned to him by the Central Government or the Chief of the Naval Staff, and to discharge the functions conferred on him by or under this Act or any other law for the time being in force.

170. Discharge of functions of the Judge Advocate General of the Navy in his absence.—The functions of the Judge Advocate General of the Navy shall in his absence on leave or otherwise, be performed by such one of the judge advocates in his department as may be designated in this behalf by the Chief of the Naval Staff.

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CHAPTER XIX

DISPOSAL OF THE PRIVATE PROPERTY OF PERSONS DECEASED, MISSING, ETC.

171. Disposal of property of deceased sailors.—(*1*) On the death of a [1][sailor] while subject to naval law, the commanding officer of the ship to which the [1][sailor] belonged shall as soon as may be,—

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

(*b*) draw the pay and allowances due to such persons;

(*c*) if he thinks fit, and subject to any regulations made in this behalf, collect all moneys left by the deceased in any banking company, including any post office savings banks, cooperative 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 authority 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 institution; and such agent, manager or other authority shall, notwithstanding anything contained in any other law, be bound to comply with the requisition.

(*2*) Where any money has been paid by the banking company, society or other institution in compliance with the requisition under clause (*c*) of sub-section (*1*), no person shall have any claim against the said banking company, society or other institution in respect of such money.

(*3*) The commanding officer shall, if in his opinion it is necessary for the purpose of securing the payment of the ship and service debts and other debts in the ship or quarters of the deceased and the expenses, if any, incurred by the commanding officer in respect of the estate of the deceased, cause the movable property of the deceased to be sold or converted into money.

(*4*) If the representative of the deceased is on the spot and either pays or gives security for the payment of the ship and service debts and other debts in ship or quarters due from the deceased, the commanding officer shall not take action under clause (*c*) of sub-section (*1*) or under sub-section (*3*).

(*5*) The commanding officer shall, out of the moneys so received, collected or realised under sub-sections (*1*) and (*3*), pay the ship and service debts and other debts in ship or quarters of the deceased, and the expenses incurred in connection with the realisation of the assets of the deceased.

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1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-74).

(*6*) Any property left over after meeting the expenditure indicated in sub-section (*5*), or where the representative had paid or given security for the payment of the ship and service debts and other debts in ship or quarters the entire property of the deceased, shall be delivered over by the commanding officer to the representative of the deceased, whereupon his responsibility for the administration of the estate of the deceased shall cease.

(*7*) If no claim is made in respect of the said surplus by a representative of the deceased within twelve months of the death, the commanding officer shall take steps to hand over the property to the prescribed person who shall continue the administration of the estate of the deceased as provided for in section 176.

172. Disposal of property of deceased officers.—The provisions of section 171 shall also apply to the disposal of the property of an officer who dies while subject to naval law, but with the following modifications, namely:—

(*i*) the functions of the commanding officer under section 171 shall be performed by a Committee of Adjustment constituted in this behalf in the prescribed manner; and

(*ii*) the surplus, if any, after the payment of debts and expenses specified in sub-section (*3*) of section 171 shall be paid to the person prescribed in this behalf.

173. Decision of questions as to ship and service debts and other debts in ship or quarters.—If in any case doubt or difference arises as to what are the ship or service debts and the debts in ship or quarters of a deceased officer or [1][sailor] 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.

174. Nature of the powers of commanding officer or Committee of Adjustment.—For the purpose of the exercise of his or its duties under section 171 or 172, as the case may be, the commanding officer or the Committee of Adjustment, as the case may be, shall, to the exclusion of all other persons and authorities have the same rights and powers as if the commanding officer or the Committee had taken out representation to the estate of the deceased, and any receipt given by such commanding officer or the Committee, as the case may be, shall have effect accordingly.

Explanation.—"Representation" includes probate, letters of administration with or without the will annexed and a succession certificate issued by a court of competent jurisdiction constituting a person executor or administrator of the estate of the deceased person or authorising him to receive or realise the assets of a deceased person.

175. Powers of Central Government to hand over estate of deceased persons to the Administrator-General.—(*1*) Notwithstanding anything contained in the Administrator-General's Act, 1913 (3 of 1913), an Administrator-General shall not interpose in any manner in relation to any property of a deceased which has been dealt with under section 171 or section 172 except in so far as he is expressly required or competent 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 [1][sailor] or officer shall be handed over by the commanding officer or the Committee of Adjustment, as the case may be, to the Administrator-General of a State for administration and thereupon such commanding officer or the Committee shall make over the estate to such Administrator-General.

(*3*) Where under this section any estate is handed over to the Administrator-General, the latter shall administer such estate in accordance with the provisions of the Administrator-General's Act, 1913 (3 of 1913):

Provided that where the estate is handed over to the Administrator-General before the ship and service debts and other debts in ship or quarters of the deceased are paid, it shall be the duty of the Administrator-General to pay these debts in priority to any 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 to the person prescribed in this behalf.

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1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-74).

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

176. Disposal of surplus by prescribed persons.—On receipt of the surplus referred to in sub-section (*7*) of section 171 or clause (*ii*) of section 172 or sub-section (*4*) of section 175, the prescribed person shall,—

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

(*b*) if the surplus does not exceed [1][the prescribed amount not exceeding rupees on lakh in value] if he thinks fit, pay or deliver to any person appearing to him to be entitled to receive the same, without requiring such person to produce any probate, letters of administration, succession certificate or other conclusive evidence of title;

(*c*) if the prescribed person does not know of any such representative to whom the surplus could be paid under clause (*a*), or if the surplus has not been disposed of under clause (*b*), 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 the legal 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 accrue therefrom, to the credit of the Central Government:

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

177. Disposal of effects not converted into money.—Where any part of the estate of a deceased officer or [2][sailor] consists of effects, securities or other property not converted into money, the provisions of sub-section (*7*) of section 171 or clause (*ii*) of section 172 and section 176 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 legal representative of the deceased.

178. Termination of liability of commanding officer, Committee, prescribed person and the Central Government.—Any payment or application of money or delivery, sale or other disposition of any property made, or purported to be made by the commanding officer, the Committee or the prescribed person in good faith in pursuance of sections 171 to 176 shall be valid and shall fully absolve the commanding officer, the Committee or the prescribed person, as the case may be, as well as the Central Government from all liability in respect of the money or property so paid, applied or disposed of; but nothing herein contained shall be deemed to affect the right of any executor or administrator or other legal representative or of any creditor of the deceased against any person to whom any such payment or delivery as aforesaid has been made.

179. Saving of rights of representative.—Nothing in this Chapter shall affect the rights and duties of the representative of a deceased [2][sailor] or officer or any Administrator-General, in respect of the property of such deceased [2][sailor] or officer not collected by the commanding officer or the Committee, as the case may be, and not forming part of the surplus handed over to the prescribed person either under sub-section (*7*) of section 171 or clause (*ii*) of section 172.

180. Application of sections 171 to 179 to persons of unsound mind.—The provisions of sections 171 to 179 shall, so far as they can be made applicable, also apply in the case of an officer or [2][sailor] subject to naval law who is ascertained in the prescribed manner to be of unsound mind notwithstanding anything contained in the Indian Lunacy Act, 1912 (4 of 1912), or who, while on active service, is officially reported missing, as if the said officer or [2][sailor] 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:

1. Subs. by Act 23 of 2005, s. 9, for "ten thousand rupees in value and" (w.e.f. 23-6-2005).
2. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-74).

Provided that in the case of an officer or [1][sailor] so reported missing, no action shall be taken to dispose of the property under sections 171, 172 and 175 until such time as a certificate under the regulations made under this Act is issued by or under the authority of the Chief of the Naval Staff or other prescribed person that he is confirmed or presumed to be dead.

181. Appointment of Standing Committee of Adjustment in certain cases.—When an officer while subject to naval law dies or is ascertained in the prescribed manner to be of unsound mind or while on active service is officially reported missing, the reference in the foregoing provisions of this Chapter 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, if constituted, shall alone by entitled to perform all the functions of such Committee unless otherwise directed by the Chief of the Naval Staff.

182. Exercise of powers by other persons.—The functions and powers of the commanding officer in this Chapter may in any case be performed or exercised by any other person appointed in this behalf by the Chief of the Naval Staff.

183. Forfeiture of effects for absence without leave.—If any person subject to naval law is absent without leave for a period of one month (whether he is guilty of desertion or of improperly leaving his ship or place of duty or not) but is not apprehended or tried for his offence, he shall be liable for forfeiture of pay and allowances and other benefits as the Central Government from time to time by regulations provide, and the Central Government, the Chief of the Naval Staff or the prescribed officer may by an order containing a statement of the absence without leave direct that the clothes and effects, if any, left by him on board ship or at his place of duty be forfeited and the same be sold and the proceeds of the same shall be disposed of as provided in the regulations made under this Act; and every order under this provision for forfeiture or sale be conclusive for the purpose of this section as to the fact of the absence without leave as therein stated of the person therein named; but in any case the Central Government may, if it deems fit on sufficient cause being shown at any time after forfeiture and before sale, remit the forfeiture, or after sale pay or dispose of the proceeds of the sale or any part thereof to or for the use of the person to whom the clothes or effects belonged, or his representatives.

CHAPTER XX

REGULATIONS

184. Power to make regulations.—(*1*) The Central Government may, by notification in the Official Gazette, make regulations for the governance, command, discipline, recruitment, conditions of service and regulation of the naval forces and generally for the purpose of carrying into effect the provisions of this Act.

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

(*a*) the rank, precedence, powers of command and authority of officers and [1][sailors] in the naval service;

(*b*) the relative rank, precedence, powers of command and authority of officers and [1][sailors] in the naval service in relation to members of the regular Army and the Air Force;

[2][(*c*) the cases in which, and the conditions subject to which, powers of punishment may be exercised under sub-section (*2*) of section 7;

(*ca*) the retirement, discharge and dismissal of persons in the naval service;

(*cb*) the authority to which any matter referred to in section 19A may be referred and the manner in which an enquiry may be made by that authority;]

(*d*) the convening and constitution of courts-marital and the appointment of prosecutors at trials by court-martial;

1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-74).
2. Subs by s. 18, *ibid.,* for clause (*c*) (w.e.f. 16-12-1974).

(*e*) the adjournment, dissolution and sittings of courts-martial;

(*f*) the procedure to be observed in trials by courts-martial, the persons by whom an accused may be defended in such trials and the appearance of such persons thereat;

(*g*) the forms of orders to be made under the provisions of this Act relating to courts-martial and the awards and infliction of death, imprisonment and detention;

(*h*) the carrying into effect of sentences of courts-martial;

(*i*) any matter necessary for the purpose of carrying this Act into execution as far as it relates to the investigation, arrest, custody, trial and punishment of offences triable or punishable under this Act;

(*j*) the terms and conditions of service, the pay, pensions, allowances and other benefits of persons in the naval service, including special provision in this behalf during active service;

(*k*) the ceremonials to be observed and marks of respect to be paid in the naval service;

(*l*) the convening of, the constitution, procedure and practice of boards of inquiry, the summoning of witnesses before them and the administration of oaths by such boards;

(*m*) the computation of time of absence without leave or custody of deserters and absentees without leave;

(*n*) any matter relating to the realisation and disposal of the estates of officers or [1][sailors] who are deceased, ascertained to be of unsound mind or reported missing on active service;

(*o*) the enquiry into the conduct of prisoners of war, and their pay and allowances;

(*p*) the provision to be made for the wives and children of prisoners of war or missing persons;

(*q*) the procedure relating to the exercise of powers under section 163;

[1][(*qa*) the amount required to be prescribed under clause (*b*) of section 176]

(*r*) any other matter which is to be, may be, or is required to be, prescribed under this Act.

[2][**184A. Power to make regulations with retrospective effect.—**The power to make regulations conferred by this Act shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the regulations or any of them, but no retrospective effect shall be given to any regulation so as to prejudicially affect the interests of any person to whom such regulation may be applicable.]

[3][**185. Regulations to be laid before Parliament.—**Every regulation made 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 regulation or, both Houses agree that the regulation should not be made, the regulation 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 regulation.]

CHAPTER XXI

REPEALS AND SAVINGS

186. [*Repeals.*] *Rep. by the Repealing and Amending Act*, 1960 (58 *of* 1960), s. 2 *and Sch. I* (*w.e.f.* 29-12-1960).

187. Provisions as to existing naval forces, appointments, etc.—(*1*) The Indian Navy in existence at the commencement of this Act shall be deemed to be the regular naval force raised under this Act.

1. Ins. by Act 23 of 2005, s. 10 (w.e.f. 23-6-2005).
2. Ins. by Act 48 of 1982, s. 11 (w.e.f. 16-10-1982).
3. Subs. by Act 53 of 1974, s. 19, for section 185 (w.e.f. 16-12-1974).

(*2*) The Indian Naval Reserve, the Indian Naval Volunteer Reserve and the Indian Fleet Reserve in existence at the commencement of this Act shall be deemed to be the Indian Naval Reserve Forces raised under this Act.

(*3*) Officers in the Indian Navy or the Indian Naval Reserve Forces at the commencement of this Act shall be deemed to have been appointed as such under this Act.

(*4*) The person holding office as Judge Advocate of the Fleet at the commencement of this Act shall, on such commencement, be deemed to have been appointed as the Judge Advocate General of the Navy under this Act.

(*5*) [1][Sailors] in the Indian Navy or in the Indian Naval Reserve Forces at the commencement of this Act shall be deemed to have been duly enrolled as such under this Act.

CHAPTER XXII

TRANSITORY PROVISIONS

188. Powers of officers of the Royal Navy.—(*1*) An officer of the Royal Navy attached to or serving with the Indian Navy shall have and exercise all such powers as are vested in or may be exercised by an officer of the Indian Navy of corresponding rank or holding a corresponding appointment and shall be eligible to be granted a commission to convene courts-martial or to be appointed as president of a court-martial or to sit on a court-martial as a member as if he were an officer of the Indian Navy subject to naval law.

(*2*) The expression "superior officer" wherever used in this Act shall be deemed to include an officer of the Royal Navy when serving under conditions specified in sub-section (*1*).

India Code

1. Subs. by Act 53 of 1974, s. 2, for "seaman" (w.e.f. 16-12-1974).

STATEMENT OF OBJECTS AND REASONS

The existing law relating to the Navy is contained in the Indian Navy (Discipline) Act, 1934. This Act was passed pursuant to section 66 of the Government of India Act, 1919 (later replaced by section 105 of the Government of India Act, 1935) which empowered the then Indian Legislature to apply to the Naval Forces raised in India the provisions of the U.K. Naval Discipline Act. Accordingly, the U.K. Naval Discipline Act, as modified and set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934 was made applicable to the Indian Naval Forces. When the constitutional changes took place, action was taken to adapt this Act and it now appears as a self-contained Act.

2. This Act dealt largely with disciplinary provisions. There were no statutory provisions concerning the various matters of administration, enrolment, grant of commissions, etc.

3. It was long considered that this lacuna should be filled and when the constitutional changes took place it became evident that it would be necessary to have a consolidating statute on the subject. In the meantime, in 1950, the revised Army Act and Air Force Act were passed by Parliament. It was not possible at that time to draft a revised Navy Bill as the present Act was modelled mainly on the corresponding British Act. In U. K., a special committee had been appointed to examine the question of the revision of the British Naval Code. It was thought that it would be an advantage to await the report of that Committee. The present draft has been made taking into account the report of that Committee.

4. In drawing up the present Bill, the provisions of the Army and Air Force Acts have been borne in mind, but changes have had to be accepted on account of difference of conditions of service of the Navy and Naval traditions and usages.

5. The main object of the present Bill is to make the law self-sufficient by incorporating the necessary provisions of certain other related enactments and regulations and to adapt the existing provisions to suit the new constitutional set-up and present-day requirements.

6. The main changes in the existing law are as follows:—

(a) the maximum punishments have been modified to conform to the agreed decision concerning punishments in the three Services:

(b) provisions have been inserted concerning grant of commissions and enrolment in the Service and for prescribing conditions of service:

(c) provisions have been inserted pursuant to article 33 of the Constitution to restrict or abrogate the application of fundamental rights to the members of the Armed Forces in so far as this is necessary for the maintenance of discipline;

(d) provisions have been inserted for deductions from pay of officers and ratings for absence without leave, damage to Government property, etc.:

(e) the penal sections have been rationalised and a few amendments made which have been necessitated by experience;

(f) the jurisdiction to try civil offences has been modified to conform to that existing in the Army and Air Force;

(g) the main points of procedure of courts-martial have been incorporated in the Bill;

(h) officers of the non-executive branches of the Navy who were formerly not eligible to sit at courts-martial have been made eligible, it being provided, however, that the majority of the officers will consist of officers of the executive branch; it has also been provided that in certain special cases only officers of the executive branch should sit;

(i) provision has been made for issue of commissions to examine witnesses;

(i) the Indian Evidence Act has been made applicable to the proceedings of courts-martial;

(k) the judicial review of the Judge Advocate General of the Navy has been placed on a statutory basis and his qualifications have been prescribed;

(l) the existing naval courts-martial procedure permitting the accused to give evidence on oath has been continued with a slight modification to conform to the provisions in the Criminal Procedure Code as amended by the recent Criminal Procedure Code Amendment Act;

(m) provision has been made for winding up of estates of deceased persons.

NEW DELHI;
The 21*st May*, 1957.

V.K. KRISHNA MENON.

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