PART II
STATUTORY

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REGULATIONS FOR THE NAVY PART II
(DISCIPLINE AND MISCELLANEOUS PROVISIONS)

CHAPTER I
PRELIMINARY

Short title: -

1. These Regulations may be called the Navy (Discipline and Miscellaneous Provisions) Regulations, 1965.

2. **Definitions: -** In these Regulations unless the context otherwise requires (a) 'Act' means the Navy Act, 1957 (62 of 1957).

(b)"Administrative Authority" in relation to any provision of these Regulations means the authority which is designated as such in the Navy Orders.

(c)"Appendix" means an Appendix set forth in these regulations.

(d)"Civil Court" means a court of ordinary Criminal Jurisdiction in India.

(dd)"Commanding officer" means the officer or other person in actual command of a ship or establishment.

(e)"Navy Orders" means the general orders of the Chief of the Naval Staff issued in the publication entitled 'Navy Orders' and includes confidential Navy Orders.

(f)"Prescribed form," means an appropriate form in Appendix I applicable to the relevant section or regulation.

(g)"Proper superior authority" when used in relation to any power, duty, act or matter means such authority as in pursuance of these regulations or any other regulations made under the Act or Navy Orders or any other orders issued by the Chief of the Naval Staff or usages or custom of the Naval service exercises or performs that power or duty or is concerned with that act or matter.

(h)"section" means a section of the Act.

(i)"sailor" means a person in the Naval service other than an officer.

(j) All other words and expressions used in these regulations and not defined but defined in the Act shall have the same meaning as in the Act.

3. **Reports and applications: -** Any report or application directed by these regulations to be made to superior authority, shall be made in writing through the

proper channel unless the said authority on account of exigencies of service or otherwise dispenses with the writing.

4. **Forms: -** (1) The forms set forth in Appendix I with such variations as the circumstances of each case may re3quire, shall be used for the respective purpose therein mentioned, but a deviation from such forms shall not, by reason only of such deviation, render invalid any charge, warrant, order, proceedings or any other documents made, issued or executed in pursuance of these regulations.

(2) Any omission in any such Form shall not by reason only of such omission, render any act or thing invalid.

(3) The directions in the notes to and the instructions in the forms shall be duly complied with in all cases to which they relate, but any omission to comply with any such directions in the notes or instructions shall not, merely by reason of such omission, render any act or thing invalid.

(4) The particulars contained in a Form are hereby prescribed as the particulars required under the relevant provisions of the act or these regulations.

5. **Exercise of powers of the Chief of the Naval Staff in his Absence from Naval Headquarters: -** Any power vested in the chief of the Naval Staff by these regulations may be exercised when he is absent from Naval Headquarters on duty or otherwise by the Vice Chief of the Naval Staff and in the absence of both the Chief of the Naval Staff and vice Chief of the Naval Staff, by the senior principal Staff officer present in the Naval Headquarters, unless under an y general or special orders of the Chief of the Naval Staff he has reserved to himself the exercise of the specific power.

6. **Cases unprovided for: -** In regard of any matter not specifically provided for in these regulations, it shall be lawful for the competent authority to do such thing or take action as it appears to be just and proper.

CHAPTER – II
SUMMARY PUNISHMENT AND PROCEDURE

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SECTION I – POWERS OF PUNISHMENT

7. Powers of punishment of Commanding Officer: - (1) The Commanding officer may summarily try and punish any offence triable under the Act Committed by a sailor other than a capital offence and may, subject to the provisions of these regulations, award the several punishments specified in regulation 13, provided that: -

(a) If the offence is alleged to have been committed by a sailor who is entitled under these regulations to electorial by court-martial, the procedure described in these regulations therefore shall be followed; (b) except as provided in regulation 36 a Chief Petty Officer, a Petty Officer, a sailor holding a leading rank or a sailor holding a good conduct badge shall not be summarily sentenced to imprisonment or detention: (c) a Commanding Officer shall not try summarily an offence where the Chief of the Naval

Staff has by general or special order directed that it shall be dealt with by court-martial.

(2) If the Commanding Officer, in cases within his jurisdiction considers that the offence cannot be adequately punished within his powers of punishment or where for other reasons he considers it desirable, he shall apply for a court-martial in the manner hereinafter provided.

(3) The officer next in command is to assume the powers of trial and punishment of the commanding Officer only if the Commanding Officer has ceased to exercise command through sickness or for any other reason or because of absence on duty or leave during which he will be absent from the ship for over forty-eight hours.

7A. Punishments applicable to Master Chief Petty Officers: -

(1) A Master Chief Petty Officer may be tried and punished summarily by the Commanding Officer of the rank of Commander and above, and may then be awarded punishments No.3, 3A, 3B, 5, 6, 10, 12 and 14 as mentioned in sub-regulation (1) of regulation 13.

(2) In Ships Commanded by officers below the rank of Commander, the punishments referred to in sub-regulation (1) may, subject to the exceptions provided for in regulation 12, in respect of emergency and with the previous approval of an officer of or above, the rank of Commander, be awarded by the Commanding officer.

(3) When being tried summarily, a Master Chief Petty Officer shall have no right to elect trial by court-martial.

(4) As Master Chief Petty officer charged with offences which, if proved, will merit more severe punishment, is to be tried by court-martial and in the event of such Master Chief Petty Officer being reduced to a rank below Chief Petty Officer, he shall be given the option of release from the Naval service.

8. Powers of officers in Command of tenders absent from ship or boat detached: -

Subject to the provisions of these regulations the powers of trial and punishment of a Commanding Officer may, as respects sailors on board a tender to the ship, be exercised in the case of a single tender absent from the parent ship by the officer in Command of the tender and in the case of two or more tenders absent from the parent ship in company or acting together, by the officer in immediate command of such tenders and as respects 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, provided that the Commanding Officer of the parent ship may at his discretion restrict powers to be exercised under these regulations according to the circumstances including the time that the tender or boat will be away and the seniority and experience of the officer who is to be in command.

9. Power of officers in immediate Command of sailors on DETACHED SERVICE: -

The powers of trial and punishment of the Commanding Office may be exercised as respects sailors on detached service on shore or otherwise, by the officer in immediate command, provided that: -

(a) the Commanding Officer of the ship to which the sailors on detached service belong may restrict the powers exercisable under these regulations and should in every case consider whether it is desirable to do so;

(b) where sailors belonging to different ship are on detached service together, the proper superior authority may restrict the powers exercisable under these regulations;

(c) notwithstanding anything herein before contained, the Chief of the Naval Staff may, by special or general order provide for the regulation of the powers on the officer in immediate command of sailors on detached service and where such a special or general order is in force, no other

directions shall be given by the Commanding Officer or other superior authority.

10. Powers of punishment of officers in Command of Naval Barracks not commissioned as a ship: - The powers of trial and punishment of the commanding Officer may as respects sailors quartered in Naval Barracks be exercised by the officer in command of the Naval Barracks provided that a proper superior authority may at its discretion restrict the powers of punishment to such extent as it may consider desirable.

11. Other Officers empowered to deal with offences: - Offences may also be summarily tried and punished in accordance with the provisions hereinafter contained by officers to whom the Commanding Officer has delegated powers of trial and punishment as provided in regulation 21.

12. Restriction on powers of officers below the rank of Commander: - Notwithstanding anything in the preceding regulations, a punishment requiring a warrant which would not otherwise require the approval of a superior authority, shall not be awarded by an officer below the rank of Commander without the approval of an officer of or above that rank except in the case of extreme urgency like period of war, or in the case of ship on detached service abroad for a long period, subject always in such a case to any directions he may have received in his behalf from his superior authority.

13. Summary Punishments: - (1) The following punishments may be awarded summarily to sailors other than Artificer Apprentices and Boys under training subject to the provisions of the Act and these regulations and may be referred to by the numbers prefixed to each of them, namely: -

No. 1 - Imprisonment for a period not exceeding three months:

No.2 - Detention for a period not exceeding three months.

No.3 - Dismissal from the Naval service;

No.3A - Forfeiture of seniority in rank of not more than 12 months in case of Master Chief Petty Officer;

No.3B - Forfeiture of time for promotion of not more than 12 months in case of Master Chief Petty Officer;

No.4 - Reduction in rank;

No.5 - Fine in respect of Civil offences;

No.6 - Mulcts of pay and allowances;

No.7 - Omitted;

No.8 - Solitary confinement in a cell or under a canvas screen for a period not exceeding fourteen days;

No.9 - Deprivation of Good Conduct Badge and Good Conduct Medal; No.10 - Reprimand by the Captain; No.11 - Extra work and drill for a period not exceeding fourteen days; No.12 - Stoppage of leave for a period not exceeding sixty days;

No.13 - Extra work or drill for not more than two hours in a day for a period not exceeding seven days;

No.14 - Admonition.

(2) The punishments which may be awarded to Artificer Apprentices and Boys under training shall be as set forth in Chapter III of these Regulations.

14. **Warrant Punishment: -** Punishments Nos 1 to 5 and 8 and 9 shall be known as warrant punishments and shall not have effect unless a warrant is made out in the prescribed

form

15. Punishments requiring approval of superior authority: -(1) Punishment No.3, dismissal from the Naval Service, and where any other punishment accompanies it, the whole of the punishment proposed to be awarded shall require the approval of the Chief of the Naval Staff.

(2) Punishment No.1, imprisonment, and punishment No.2, detention, Punishment No.3A, forfeiture of seniority in rank in case of Master Chief Petty Officer and Punishment No.3B, Forfeiture of time for promotion in case of Master Chief Petty Officer, shall require the approval of the Administrative Authority.

(3) Punishment No.4, 5 and punishment No.9 (in so far as it refers to the deprivation of a Good Conduct Medal) shall require the approval of a Flag Officer or Commodore.

16. Preparation of Warrants: - (1) Officer awarding Warrant punishment shall ensure that the warrant is correctly drawn up in accordance with the instructions contained in these regulations and the directions and the notes on the prescribed form.

(2) Warrants shall be numbered consecutively from the date of the ship's commission or re-commission and for ships in continuous commission, a new series shall be started on first January each year.

(3) Every punishment awarded and every punishment which shall accompany that award shall be set out in the appropriate column in the warrant except punishment of stoppage of pay and leave involved in a sentence of imprisonment, detention or cell punishment.

(4) When mulcts of pay and allowances or stoppage of leave are reduced or remitted in pursuance of these regulations only the number of days mulcts actually charged against the offender may be entered in the warrant as part of the punishment, any remission being noted in the space provided for the purpose.

(5) Punishment warrants requiring approval of superior authority shall be accompanied by a summary of evidence recorded by the Commanding officer.

17. Approval of Warrants: - (1) If an officer having power to approve a warrant considers for any reason that the punishment proposed is inadequate, he may alter the punishment within the limits of the powers of punishment of a Commanding Officer and the punishment so altered shall be the punishment awarded.

(2) The officer having power to approve the warrant may approve the warrant for a punishment lower than that proposed by the commanding Officer.

18. Modification of sentence: - At any time before the warrant is read, the Commanding Officer may modify or withdraw the sentence if on further consideration it appears to him desirable to do so provided that if the warrant has been approved by a superior authority, the sentence shall not be modified or withdrawn without the consent of the authority.

19. Formal reading of warrant: - (1) After signature and approval where necessary, the warrant shall be dated and formally read forthwith to the offender by the Commanding Officer or any other officer so authorized by him.

(2) The date of the warrant and the date reading the warrant shall always be the same and where an unusual interval elapse between the commission of the offence and the reading of the warrant the cause for the same shall be stated on the warrant.

(3) The formal reading shall be carried out on the quarterdeck or any other suitable place and shall be preceded by the Articles of War under which the offence falls and unless the Commanding Officer should think it necessary for the sake of example, it shall not be necessary to read the previous offences, entered in the warrant.

(4) Where an offender whose case has been fully investigated has been sent to a hospital the warrant shall be formally read to him in the hospital unless the Medical Officer certifies that the offender is medically unfit to have the warrant read to him in which case the formal reading may be carried out on the quarter deck or any other suitable place in his absence and such formal reading of the warrant shall have the same effect as if it had been read to the offender.

(5) The fact of a warrant having formally been read in the absence of the offender shall be stated on the warrant and shall be intimated to him as soon as he is in a fit state to receive such intimation.

20. Date from which sentence runs: - (1) The punishment of imprisonment or detention which is not postponed in accordance with the provision of section 151 or suspended shall begin to run on the day on which the warrant is formally read but if the offender has been kept in custody since the date on which warrant was signed by the officer who tried him, the sentence shall begin to run on that date.

(2) Other punishments shall take effect on the date on which the warrant is formally read.

(3) Notwithstanding that the state of health of the offender is such as renders him unable to under-go the whole or any part of the summary punishment to which he may have rendered himself liable and it appears probable that he will be invalided from the service or remain for a considerable time unfit for punishment, the punishment merited for his offence shall be awarded and should it require a warrant, it is to be completed and duly signed and read if necessary in the absence of the accused in order that he may not escape the consequences of the punishment such as loss of pay or stoppage of leave.

21. Delegated authority to punish: - (1) In pursuance of sub-section (4) of section 93 the commanding officer may delegate in writing powers of awarding punishments as provided in this regulation.

(2) The executive officer, if he is a commander may be delegated the power to award the following punishments, namely: -

(a) Extra work and drill for a period not exceeding fourteen days (No.11).

(b) Stoppage of leave for a period not exceeding twenty-four days (No.12).

(c) Extra work or drill for not more than two hours a day for a period not exceeding seven days (No.13).

(d) Admonition (No.14).

(e) Mulcts of pay and allowances for a first offence of leave breaking up to thirty-six hours (No.6).

(f) Mulcts of pay and allowances for first offence of returning from leave drunk or drunkenness on shore (No.6).

(3) The executive officer, if he is of the rank of Lieutenant Commander or Lieutenant, may be delegated the power to award the following punishments, namely: -

(a) Extra work and drill for a period not exceeding seven days (No.11).

(b) Stoppage of leave for a period not exceeding twenty-four days but not to Chief Petty Officer and Petty Officers (No. 12).

(c) Extra work or drill for a period not exceeding seven days (No.13).

(d) Admonition (No. 14).

(4) The Commander of an Air Squadron, if he is of or above the rank of Lieutenant may be delegated the power to award the following punishments to sailors of the Aid Squadron for offences connected with the work of the squadron but not for offences

connected with the general duties of the ship, namely: - (a) Extra work and drill for a period not exceeding seven days (No. 11).

(b) Stoppage of leave for a period not exceeding twenty-four days but not to Chief Petty Officers and Petty Officers (No.12).

(c) Extra work or drill for a period not exceeding seven days (No.13).

(d) Admonition (No.14).

(5) The officer of the watch or officer of the day if he is of the rank of Lieutenant or above may be delegated the power to award the following punishments namely: -

(a) Extra work or dill for one day (No.13).

(b) Admonition (No.14).

(6) Any of the following officers may, if he is of or above the rank of lieutenant, be delegated the power to award the punishments of extra work or drill for one day (No.13) and Admonition (No.14) to any sailor of his department for an offence connected with the duties of his department but not connected with the general duties of the ship, namely: -

(a) Lieutenant Commander (Flying).

(b) Lieutenant Commander (Air).

(c) The officer of the engineering Department below the Engineer officer in seniority or if only one officer is borne or there is no other officer of the prescribed rank, the Engineer Officer.

(d) At a Naval Air Station, the officer of the Engineering Department next below the Air Engineer officer or if only one officer is borne or there is no other officer of the prescribed rank in the department, the Air Engineer officer.

(e) The officer of then Logistics department next below the Logistics officer in seniority or if only one officer is borne and there is no other officer of the prescribed rank, the Logistics officer.

(f) The officer of the Electrical Department next below the Electrical officer in seniority or if only one officer is borne or there is no other officer of the prescribed rank in the department, the Electrical officer.

(7) Any Divisional officer of or above the rank of Lieutenant may be delegated the power to award the punishments of extra work or drill for one day (No.13) and Admonition (No.14) to any sailor of his division for offences connected with the division but not with the general duties of the ship or establishment.

(8) The Medical officer in charge of a ward may be authorised to award the punishment of extra work or drill for one day (No.13) or Admonition (No.14). (9) The Commanding Officer of a tender in company with the parent ship may be authorized to award the following punishments, namely: -

(a) If he is of the rank of Captain, any punishment referred to in regulation 13 other than imprisonment, detention or dismissal.

(b) If he is of the rank of Commander: -

(i) Reprimand by Captain (No.10);

(ii) Extra work and drill for a period not exceeding fourteen days (No. 11);

(iii) Stoppage of leave not exceeding twenty-four days (No.12); (iv) Extra work or drill not exceeding seven days (No.13); (v) Admonition (No. 14);

(vi) Mulcts of pay and allowances for leave breaking offences upto seventy-two hours absence (No.6);

(vii) Mulcts of pay and allowances for a first offence of returning from leave drunk or drunkenness on shore (No.6).

(c) If he is of the rank of Lieutenant Commander or Below: -

(i) Mulcts of pay and allowances for first and unaggravated offence of leave breaking up to thirty -six hours absence or first offence of returning from leave drunk or drunkenness on shore; (ii) Extra work and drill for a period not exceeding seven days (No.11);

(iii) Stoppage of leave for a period not exceeding twenty-four days but not to Chief Petty Officers and Petty Officers (No12); (iv) Extra work or drill for not more than two hours in a day for a period not exceeding seven days (No.13);

(v) Admonition (No.14).

(10) The executive officer of a tender may, if he is of or above the rank of Lieutenant, be authorised to award the same punishment as may be delegated to the Executive officer if he is Lieutenant Commander or a Lieutenant.

(11) The officer-in-charge of a school at a training establishment may be delegated the power to award to sailors in the school the same punishments as may be delegated to the Executive officer of corresponding rank.

(12) In pursuance of sub-section (4) of section 93 the Commanding officer of barracks may delegate in writing to Executive officer of barrack and officer of the day the same powers of punishments as may be delegated by the Commanding officer under the foregoing regulations to the Executive Officer and Officer of the day respectively

(13) The punishments under sub-regulations (2), (3), (4), (9), (10) and (11) shall be duly entered in the Daily Record of offences and punishments and the punishments under sub-regulations (5), (6), (7) and (8) shall be entered in a special minor punishments book signed by the officer awarding them.

(14) The minor punishments book shall be examined and initialed by the Executive officer daily and signed by the Commanding officer weekly.

(15) The record of all punishments under sub-regulations (9), (10) and (11) shall be examined weekly by the Commanding Officer of the Depot Ship or establishment as the case may be.

SECTION II – INVESTIGATION

22. Investigation of departmental offences: - (1) If a sailor commits a departmental or a divisional offence, the offence shall be investigated by his departmental or Divisional officer as the case may be, and he may be summarily tried and punished by his Departmental officer or his Divisional officer provided that the offence can be adequately punished with in the powers of punishment delegated to such officer.

(2) If the Departmental or the Divisional officer decides not to deal with the case himself, he shall refer the case to the Executive officer.

(3) Where a sailor commits any other offence such offence may be investigated and the sailor may be tried and punished by the officer of the watch or the officer of the day provided that the offence can be adequately punished within the powers of punishment delegated to the officer of the watch or the officer of the day.

(4) If the officer of the watch or the officer of the Day decides not to deal with the case himself, he shall refer it to the Executive officer.

(5) The Executive Officer may investigate and try and punish summarily any offence referred to him provided it can be adequately punished within the powers of punishment delegated to him.

(6) If the Executive officer decides not to deal with the case himself, he shall refer it to the Commanding Officer.

23. Offences by sailors on board tenders: -Offences committed by sailors belonging to a tender shall be similarly investigated and tried and if ultimately the offence is one which cannot be adequately dealt with by the Commanding officer of the tender he shall refer it to the Commanding Officer of the parent ship.

24. Modification in case of training establishments: - (1) In training establishments where an Officer-in-Charge of a school has been delegated powers of awarding punishment, the officer of the day if he decides no to deal with the case himself, shall refer the case of any sailor belonging to a school to the Officer-in-Charge of that school, who may deal with the case provided it can be adequately punished within his powers of punishment.

(2) If the Officer-in-Charge of the school decides not to deal with the case himself, he shall refer it to the Commanding Officer

25. Investigation of other offences: - (1) The preliminary investigation of offences by the officer of the Watch or officer of the day shall take place as soon as possible after the commission of the offence while witnesses' memory is still fresh.

(2) The formal investigation of offences shall, when the service and circumstances admit, be deferred until the day following that of the commission of the offence.

(3) Hasty charges shall not be made and as far as practicable there shall not be an y delay in the investigation of the charge and the decision of the case and, when the accused is found guilty in the award of the punishment.

(4) The fact that an offender's Service Documents are not available shall not normally delay the investigation of an offence though there may be some delay in the infliction of punishment if the said documents are expected within a reasonable time.

(5) All charges shall be investigated fully on the quarterdeck or other suitable place, in the presence of the complainant and the accused and the complainant, accused and the witnesses shall be heard fully and with impartiality.

(6) The accused, the Divisional Officer or other defending officer, the complainant and the Master-At-Arms (or the person performing his duties) shall be present throughout the investigation.

(7) The witnesses shall be kept apart and out of earshot so that they cannot hear what other witnesses are saying when giving evidence and they shall withdraw after they have given evidence.

(8) The investigating officer shall, in every case consider whether the case is sufficiently serious to warrant the recording of the evidence and whether is desirable to record it as a precaution against a witness changing his evidence.

(9) Inconsiderate punishments: - Inconsiderate punishments, as well as nedlessly protracted punishments, shall be avoided and in awarding punishment regard shall be had to –

(i) the necessity for prevention of crime or offences and for the maintenance of proper order and discipline;
(ii) the gravity of the offence and the previous character of the offender
(iii) any consequences which may arise indirectly as a result of the offence or of the award, particularly in regard to the charges

against the offender's pay for offences of absence or desertion, or for damage to or loss of stores and such other matters.

(10) In cases of repeated offences the effect of gradually increasing the degree of punishment until the maximum is reached shall be tried before awarding the maximum punishment.

(11) All altercations with excited or drunken men shall be avoided; no man under the influence of temper or drink shall be placed in a situation likely to excite him further and thereby lead him to acts of violence or insubordination.

26. Assistance to the accused: - (1) if the alleged offence is one which may be brought before the Commanding officer, the accused may request and shall be afforded at the earliest stage at which this is practicable, the assistance of any officer or other person in his ship whose assistance is reasonably available.

(2) If no such request is made, it shall be the duty of the Divisional officer or such other officer as the Commanding officer may detail, having regard to the requirements of the case, to advise the accused at all stages.

(3) The officer or person advising the accused may be changed at any stge either at the request of the accused or on account of exigencies of service.

27. Procedure at investigation in general: -(1) At all investigations the evidence in support of the charge shall be heard first.

(2) Immediately after the charge has been read out, the investigating officer shall warn the accused that he should not make any statement or give any evidence on his own behalf until all the evidence against him has been heard.

(3) On conclusion of the evidence in support of the charge, the investigating officer shall decide whether a case has been made out against the accused.

(4) If there is no case, the investigating officer shall either dismiss the case or, if further evidence is likely to become available, stand it over and if there is a prima facie case, and it is a simple one with which the investigating officer thinks he can deal with himself, he shall ask the accused if he admits the charge.

(5) If the accused does not admit the charge and the matter is one within the investigating officer's powers of punishment, he shall inform the accused that he will proceed to try the case, giving him an opportunity of making a statement and calling witnesses.

28. Investigation by the officer of the watch, the officer of the Day, or the Executive officer: - (1) if, after hearing the evidence in support of the charge, the officer of the watch, the officer of the Day or the Executive officer is of opinion that the charge, if proved, would be beyond his power to punish, he must bear in mind that a confession made before him by the accused will not be admissible in evidence at an y further proceedings unless the accused has been cautioned, before he speaks, that he is not obliged to say any thing unless he wishes to do so,

and that any statement he may make may be given in evidence. Care should be taken to avoid any suggestion that the accused's answers can only be used in evidence against him, as this may discourage an innocent person from making a statement which might help to clear him of the charge. The investigating officer must also bear in mind that in case beyond his power of punishment his functions are to see whether there is a Prima facie case, to collect evidence when it is important that evidence be collected immediately, and, to give the accused a chance to make a statement. If the alleged offence is one which is likely in itself to lead at least to a warrant punishment (as distinct from one which may lead to a warrant punishment because it is the culminating

offence in a series of minor offences), the investigating officer should address the accused in the following words after hearing the evidence in support of the charges: -

> "Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you wish to do so; but whatever you say will be taken down in writing and may be given in evidence."

(2) The officer of the watch or officer of the Day need not use these words unless he decides to hear then defence before sending the case to the Executive Officer.

(3) If the accused makes a statement, it should be taken down in writing, On conclusion of this statement the investigating officer should not ask any question save to point out any ambiguity and ask if the accused wishes to clear it up or to point out that no reference has been made to some charge and ask if the accused wishes to say anything about it. In particular, nothing must be said which indicates that the accused is expected to make any further statement.

(4) If he has not already done so, the investigating officer must then make up his mind whether the case against the accused has been made out. If he decides that no case has been made out, he is to dismiss the charge.

(5) If the investigating officer decides to refer the case to higher authority, the accused is to be informed accordingly, the customary terminology "Commander's report" or "Captain's report", as the case may be, being used.

29. Investigation by the Commanding Officer: -(1) The investigation of any offence by the commanding officer shall also be regulated so far as may be by the preceding regulation.

(2) If, after hearing the evidence in support of the charge, the Commanding officer is of opinion that there is a Prima facie case and that the charge, if proved, would be within his power to punish, he shall proceed to try the case.

(3) If the Commanding Officer decides to apply for trial by court-martial, or to give a warrant punishment, the accused shall be told that the case is "remanded".

(4) If the punishment to be awarded is likely o be a warrant punishment requiring approval of superior authority, a summary of evidence given by the witnesses shall be recorded.

30. Right to elect trial by court-martial: - If a Chief Petty Officer or Petty Officer is charged with an offence which, proved would justify his being summarily reduced in lower rank, the following procedure shall be adopted: -

(a) A formal and public investigation shall be held by the Commanding Officer, a careful summary of the evidence of the witnesses for and against being made at the time in such a way that it could, if necessary, be incorporated in the appropriate

form in due course as a summary evidence.

(b) Both before and during he investigation the accused shall be afforded the assistance under regulation 26.

(c) At the conclusion of the investigation, the Commanding officer, if he thinks that the offences if proved, would deserve summary reduction in rank, shall inform the accused that he can, if he desires, be tried by court-martial and that a rank taken away by sentence of court-martial cannot be regained without submitting it to the chief of the Naval Staff for approval, but the Commodore Bureau of sailor or the Commanding officer would have the power to restore it if the reduction in rank is summarily effected by warrant.

(d) If the accused, within twenty-four hours of such information indicates that he does not wish to be tried by court-martial and the Commanding Officer decides that reduction in rank is the appropriate punishment, necessary steps shall be taken to obtain the approval on the warrant, of a Flag officer or Commodore to whom reference can most conveniently be made, the warrant being accompanied by a summary of the evidence. Each of the witness shall sign the summary of the evidence he has given. The warrant shall be signed, but neither dated nor read until the necessary approval has been obtained, but if such approval cannot be obtained within a reasonable period, the Commanding officer may award the sentence himself, reporting the circumstances without delay to the appropriate Administrative Authority.

(e) Should the accused elect to be tried by court-martial, the necessary steps for the purpose shall be taken.

(f) Should the exigencies of service, such as a single ship being on detached service, not permit a court-martial to be assembled within a reasonable period the senior officer present may, if he considers it necessary, direct the Commanding officer to deal with the case summarily and if in these circumstances, the Commanding officer reduces a Chief Petty officer or Petty Officer to a lower rank, the appropriate Administrative Authority shall order a board of enquiry to assemble at the earliest possible date; if the report of board of enquiry indicates that a lighter punishment would have been sufficient, the said authority may restore the rank from a date to be fixed by it. The accused and the complainant together with the defending officer shall be present during the whole of the time that witnesses are being examined before the board of enquiry. A report, including the minutes of the enquiry, and a copy of warrant shall be forwarded by the Administrative Authority to the chief of the Naval Staff

31. Identification of suspect: - 91) When an offence has been committed and it is possible that witnesses may not be certain of the identity of the person apprehended, an identity parade shall be held.

(2) The accused shall be fall in with, if possible, at least eight other persons of the same or similar height, age, appearance and rig as himself.

(3) The accused shall be allowed to stand where he pleases and shall be asked whether he has any objection to the arrangements.

(4) The accused's Divisional Officer or the officer or other person who may have been appointed to advice and assist him shall attend the parade, but other spectators shall not be allowed to do so.

(5) The witnesses shall be admitted one by one and each witness shall be asked to identify the suspect and his reaction shall be recorded.

(6) If a witness desires it, all the persons on the parade shall be ordered to remove or replace their caps, speaks, walk or do anything else that would assist in identification; all such actions are to be recorded.

(7) After each witness has withdrawn, the accused shall be given an opportunity to change his position in the rank.

(8) Witnesses who have inspected the parade shall be segregated from those who have not and steps shall be taken to ensure that no witness sees the suspect before he is fallen in with others in the position of his choice, and that no witness sees photographs or is given any description of the suspect before the parade.

32. Postponement of investigation: - Where the accused is on the sick list, the investigation may, at the discretion of the Commanding officer be postponed until the accused is fit for duty.

33. Scrutiny of service Documents: - (1) The Service documents of the accused shall not be scrutinsed by the Commanding officer or investigating officer until

the accused has made his statement or stated that he does not intend to make a statement.

(2) The Commanding Officer or the investigating officer, having decided whether or not the case against the accused has been made out, may examine the accused's service record in order to decide whether to deal with the case himself or refer it to higher authority; and such examination shall not be deemed to form a conviction of the accused.

SECTION III – REGULATIONS FOR INDIVIDUAL PUNISHMENTS, IMPRISONMENT AND DETENTION (Nos. 1 AND 2)

34. When to be awarded: - (1) Sentence of imprisonment should normally be confined to sailors who have already undergone several sentences of detention without effect, and to other sailors who are also to be dismissed from service.

(2) Imprisonment may, however, be awarded in lieu of detention when there is no detention accommodation available in Naval Detention quarters in which case a note to that effect shall be made on the punishment warrant and on the Advancement and Conduct Record Sheet.

(3) Notwithstanding anything contained in sub-regulation (1) and (2) persons below the age of twenty-one shall not be summarily sentenced to imprisonment except for grave civil offences and (in such cases) detention may be awarded even though they have not to be retained in service.

(4) A sentence of Ninety days shall not be awarded if that period exceeds three calendar months.

(5) Detention shall not be awarded for a period of less than ten days.

(6) In addition to the consequential punishment provided in sub-regulation (9) of section 82 a sentence of imprisonment or detention shall carry with it deprivation of Good Conduct Medal and Badges.

(7) Whenever a sentence shall be passed by a Commanding Officer on an offender already under sentence of detention or imprisonment under these regulations for former offence, the Commanding officer may award 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 or imprisonment awarded to a person in pursuance of this sub-regulation as will prolong the total term of detention or imprisonment beyond the maximum period of three months as specified in sub-regulation (1) of regulation 13, shall be deemed to be remitted.

35. Imprisonment: - (1) The sentence of imprisonment may be rigorous or simple, or partly rigorous and partly simple

(2) The Commanding officer, in awarding sentence of imprisonment, shall not direct that the prisoner shall be kept in solitary confinement during any period of his imprisonment.

(3) A sentence of simple imprisonment shall not be ordinarily awarded except in cases where the proper Medical Officer certifies that the offender is not in a fit physical condition to undergo rigorous imprisonment.

36. Restriction in the case of certain sailors: - (1) Chief Petty Officers and Petty Officers who can be reduced to lower rank shall not be sentenced summarily to imprisonment or detention except for desertion and they shall not be sentenced summarily to imprisonment or detention and reduction in rank at the same time unless their offence includes desertion.

(2) Chief Petty officer and Petty Officers who cannot be reduced to lower rank, leading sailors and sailors wearing Good Conduct Badges shall not be sentenced summarily to imprisonment or detention except for the following offences, namely: -

(a) Highly insubordinate conduct,
(b) Desertion, or deserting post,
(c) Sleeping on watch,
(d) Smuggling,
(e) Quitting ship, boat, or working party, without leave,
(f) Drunkenness on duty,
(g) Violent assault
(h) Aggravated or repeated leave breaking,
(i) Flagrant contravention of the censorship regulations,
(j) Flagrant contravention of gasoline, ammunition, or damage control regulations, which endanger life, the ship aircraft or establishment.

37. Dismissal from the Naval service (No.3): -(1) Although an offender considered unworthy of retention may be punished with summary considered unworthy of retention may be punished with summary dismissal from Naval service, such punishment shall not, save in exceptional cases, be awarded before the various punishments to which he has rendered himself liable have been inflicted upon him and found to have no effect; nor such punishment shall be awarded, if the Chief of the Naval Staff considers that he is likely to reform if transferred to another ship.

(2) A sailor who has committed an offence deserving imprisonment shall, if his past record clearly shows that he is un worthy of retention, be punished with imprisonment and dismissal.

Note: - (A) Imprisonment followed by discharge "S.N.L.R." (services no longer required), shall not be normally appropriate.

(B) A sentence of dismissal shall not normally be accompanied by a sentence of detention except in the case offender below the age of twenty-one.

(3) The punishment of dismissal does not automatically entail any other punishment except deprivation of Good Conduct Medal. The punishment of reduction in rank or the deprivation of Good Conduct Bage(s) shall be included in the sentence, if appropriate.

(4) An order for dismissal of a person from Naval service, whether accompanied by other punishments or not shall be made only by the Chief of the Naval Staff, and no punishment shall be inflicted on each person until a decision has been obtained on the question whether such person should be dismissed from Naval service or not.

(5) If a person dismissed from Naval Service desires it and there is no objection on the part of the local authorities to his landing, he may be dismissed abroad, and where such person desires to return home, he may be sent at the first opportunity by a navy ship or merchant vessel.

(6) Where such person is sent in a Naval ship under sub-regulation (5), its Commanding Officer shall be informed of his offence, and the Commanding officer shall not order him to work except in emergency and on arrival in India such person shall be immediately discharged to shore.

37A. Forfeiture of seniority (No.3A) and Forfeiture of time For Promotion (No.3B): - (1) A Master Chief Petty Officer may summarily be awarded punishment of forfeiture of seniority in rank or forfeiture of time for promotion for a period not exceeding 12 months.

(2) The punishment awarded under sub-regulation (1) shall require approval of the Administrative Authority.

(3) Wherever a Master Chief Petty Officer has summarily been punished with forfeiture of seniority in rank or time for promotion, a notation shall be made in

the conduct record sheet, page 4 of the service certificate and at such other places as considered necessary.

(4) The punishment of forfeiture of seniority shall have the effect as laid down in sub-section (11) and (12) of section 82.

(5) The punishment of forfeiture of time for promotion shall delay the promotion by the time specified.

REDUCTION IN RANK (No. 4)

38. Summary reduction in rank: - (1) A sailor may be reduced to any lower rank in his own category or to any lower class in his rank, provided that no sailor shall be reduced in rank: -

(a) below the limits laid down in the regulations for the time being in force governing the advancement of sailors.

(b) Below, either actually or relatively, the rank in which he first entered or re-entered, if service in the latter event was not continuous and re- entry was under a fresh engagement.

(2) Whenever a sailor is summarily reduced to a lower rank for misconduct or is reduced to lower rank following conviction by a civil authority under sub-regulation (6) of regulation 119, a note in writing giving the offences shall be attached to the sailor's Service Certificate which shall remain there until he is re-instated in his former rank.

(3) If a Chief Petty Officer is reduced in rank summarily he shall be iven the option of release from the Naval Service.

39. Acting rank: - (1) A sailor holding an acting rank may be reduced to a lower rank by warrant as a punishment in accordance with the usual procedure and the reductions in rank shall have the usual effect on assessment of character, Good Conduct Badges and the like.

(2) If such sailor commits an offence which, though indicating an unfitness for the higher rank is not considered sufficiently serious to merit reduction in rank by warrant, and if his general conduct is otherwise unsatisfactory, he may be reverted by his Commanding officer for unsuitability in which case the penalties which follow reduction in rank by warrant shall not be applicable

40. Fine in respect of Civil offences (No.5): - (1) A fine not exceeding Rupees Two

Hundred and Fifty may be imposed summarily when a sailor is found guilty of a Civil offence and the amount of fine shall be credited to the ship's Imprest Account.

(2) The Commanding Officer may, while passing the sentence of fine Under Sub-regulation (1), order the whole or any part of the fine recovered to be applied in the payment to any aggrieved person as compensation for any loss or injury caused to him by the said offence.

MULCTS OF PAY AND ALLOWANCES (No.6) FOR IMPROPER ABSENCE

41. Scale OF Mulcts: - (1) Except as provided in this regulation every sailor who is found guilty of absence without leave or improperly leaving his ship or place of duty shall be punished with mulcts of pay and stoppage of leave in accordance with the following scale, namely: -

(a) Where the period of absence does not exceed three hours, one day's pay and one day's leave;

(b) Where the period of absence exceeds three hours but does not exceed thirty-six hours, one day's pay and one days leave for every three hours absence or part there of;

(c) Where the period of absence exceeds thirty six hours, one day's pay and one day's leave for every three hours of absence up to thirty six hours and one day's pay and one day's leave for each subsequent period of six hours or part of six hours, so, however, that the stoppage of leave shall in no case exceed sixty days.

(2) If the period of absence is trivial or if there are extenuating circumstances and the period of improper absence does not exceed thirty six hours the Commanding Officer may, at his discretion, reduce the mulcts by such an amount as he may consider reasonable; the stoppage of leave being reduced to a corresponding extent.

(3) The provisions of sub-regulation (2) shall apply to leave breaking up to thirty-six hours dealt with in conjunction with other offences.

(4) If the period of absence exceeds thirty six hours or the offence is aggravated or repeated, any other punishment permitted by these regulations may be awarded according to the degree of offence, in addition to the mulcts of pay and stoppage of leave on the scale mentioned in sub-regulation (1) and if there are mitigating circumstances justifying exceptional treatment, the commanding officer may at his discretion, reduce the mulcts, provided that the actual mulcts (i.e. excluding detention or confinement in cell) shall not be reduced to less than one day's pay for each day's absence and where the stoppage of leave according to the said scale would amount to thirty days or less it may also be correspondingly reduced.

(5) Stoppage of leave for any period in excess of the scale shall not be awarded as a punishment for leave breaking, except in aggravated or repeated cases.

42. Remission of mulcts over sixty days: - (1) if the number of days mulcts in accordance with sub-regulation (1) of regulation 41, or if the period of sentence to which a leave breaker is confined by reason of the punishment of detention or solitary confinement in a cell plus the number of days mulcts, would amount to a total of more than sixty days, any excess mulcts shall be remitted provided that in no case shall the actual mulcts (i.e. excluding the punishment of detention or confinement in cell) be reduced to less than one day's pay for each day's absence.

(2) The provisions of sub-regulation (1) shall apply also to cases where imprisonment is awarded owing to lack of detention accommodation and such provisions shall not apply to cases where on other grounds, imprisonment is awarded in preference to detention, or where on the same occasion, the offender is also convicted of any offence other than leave breaking.

(3) If, however, exceptional hardship is involved, the circumstances should be submitted to the Chief of the Naval Staff for consideration.

(4) In all cases where a sailor has been sentenced to stoppage of leave exceeding thirty days, he shall be allowed ashore leave once a week, after the expiration of the thirty days.

(5) Nothing in this regulation shall be deemed to fetter the discretion of the Commanding Officer to reduce the mulcts to the extent provided in regulation 41.

43. General provision regarding mulcts: - (1) For the purpose of these regulations, a day's pay shall include full pay and allowances but shall not include hair-cutting allowance and kit up keep allowance.

(2) The scale of mulcts shall not apply to sailors who desert and who are consequently marked 'Run' on the books.

(3) Mulcts of pay for leave breaking and for drunkenness on leave shall be debited against the offender's account in one sum, calculated at the rate of pay in force on the date of sentence, as modified by such sentence in case reduction to lower rank, deprivation of badges and the sum so debited shall be regarded as a definite fine for the offence, and shall not subsequently be altered, as when an increase of pay is granted with retrospective effect, or when an offender may be credited with the balance of the increased emoluments for days upon which he would otherwise have been mulcted in full.

(4) The provision of sub-regulation (3) shall not apply to forfeiture of pay during confinement in cells.

44. Limits pf punishment and acts constituting main offence: -(1) The maximum summary punishment for leave breaking that should as a rule be awarded shall be detention and except for an aggravated offence, such punishment shall not exceed thirty days.

(2) The act of not returning to duty at the time ordered constitute the main offence against discipline and the aggravation of the offence shall depend upon the time for which shall be dealt with on its merits in each case.

(3) Leave breaking offences shall invariably be described on the punishment warrant or in the Daily Record of offence as follows: -

"Did remain absent over leave_____ hours_____ minutes, namely, from_____to_____"

45. Application of regulations 41 to 44: - (1) The provisions of regulations 41 to 44 shall apply to breaking out of ship, breaking away from a landing party and other case of improper absence other than leave breaking and desertion, except that any punishment applicable to the offence may be awarded in addition to mulcts pay and stoppage of leave, and it shall not be necessary to limit the period of detention for offences of this description in ordinary cases.

(2) The provisions of regulations 41 to 44 shall not apply to sailors who are only absent from a particular part of their sail

46. Calculation of period of absence: - (1) The period of improper absence included in the charge shall strictly be computed from the time when leave expires (or the time of breaking out) until the time of return to the ship or place of duty.

(2) When a sailor surrenders or is apprehended as an absentees away from the locality in which his leave expires, the Commanding officer may, having regard to the circumstances, consider the absence as having terminated at the time of surrender or apprehension, but if a lengthy journey is involved in returning to the place where leave

expired, the time involved in returning to the place where leave expired, the time involved in such journey may be included in computing the period of absence.

(3) When an absentee is arrested by the civil authority on another charge and is subsequently handed over to the Naval Authorities, his absence without leave shall be regarded as ceasing from the time of his arrest by the civil authority.

47. Simple leave breaking: -Unless the offence is a repeated or aggravated offence, the punishment for an offence of leave breaking involving improper absence of not more than thirty six hours shall be confined to mulcts of pay and stoppage of leave, but the offence was the sequal to an offence of improperly leaving ship or place of duty, other punishments may be awarded in addition.

48. Aggravated offences: - (1) For the purpose of regulations 41 to 47 an offence of leave breaking shall be deemed to be aggravated: -

(a) if the absence exceeds thirty six hours;

(b) if the absentee misses his ship or Transfer

(c) if, when leave was granted, a warning had been given that the ship was under sailing orders;

(d) if the offender was undergoing any form of punishment at the time; (e) if there are any other particularly serious circumstances; (2) The charge in a case of aggravated leave breaking may refer to the offence as aggravated, but the charge shall not contain anything which directly or indirectly refers to a previous offence.

49. Repeated offences: - (1) A repeated offence of leave breaking is one committed in the same ship or establishment within six months of a previous leave breaking offence.

(2) A subsequent repeated offence is one committed within six months of a previous repeated offence.

(3) When a sailor is transferred to another establishment solely to undergo detention and afterwards returns direct to the ship or establishment in which he was sentenced, his service shall be regarded as continuous in that ship or establishment for the purpose of assessing whether an offence subsequently committed should be considered as a repeated offence.

50. Drunkenness: - (1) A mulct of one day's pay shall be inflicted for all offences of drunkenness in a ship or while absent on duty or on returning from shore, whether such return is voluntary or otherwise and a similar mulct shall be inflicted upon men who are drunk when received in the Naval or other custody, whether from leave or not, and, if from leave, whether their leave has expired or not, unless the offender has already been dealt with by the civil authority.

(2) For the offence of drunkenness in a ship or while absent on duty, additional punishments may be awarded, at the Commanding officer's discretion.

(3) For the first offence of returning from leave drunk, sailor below leading rank provided they do not otherwise misbehave, shall not be awarded any punishment, other than the mulct of pay and if such offence is repeated or the sailors otherwise misbehave, they may be awarded other punishments.

(4) Chief Petty officer, Petty Officer, and leading ranks may be reduced to a lower rank, even for a first offence of returning from leave drunk. If the Commanding Officer considers it necessary in addition to being mulcted one day's pay.

(5) In awarding punishments for drunkenness on leave, the Commanding Officer shall take into consideration the Circumstances of each case as regards the disgrace or discredit brought on the uniform, the service, or the position which the offender holds.

REGULATIONS FORM 51 TO 54 – BLANK

CELLS (No. 8)

55. Physical conditions: - (1) A sailor sentenced to cells shall be confined under a canvas screen or in a cell approved by the chief of the Naval Staff of a period not exceeding fourteen days and any such sentence shall require a warrant.

(2) A cell shall measure not less than 2 metres in length and 1 metre in breadth and shall be as high as the space between decks, and shall be ventilated properly and no cell shall be made or altered without the authority of the Chief of the Naval Staff.

(3) No sailor shall be confined in which the temperature exceeds 30^0C unless the Commanding Officer is satisfied that there is adequate ventilation.

(4) No sailor shall undergo a cell punishment unless a Medical Officer has examined him and certified that he is in a fit physical condition to undergo that punishment and such certificate shall be recorded on the punishment warrant.

56. Restriction regarding sailors holding Leading Ranks: - Sailors holding Leading ranks who can be reduced in rank shall not be sentenced to cell and sailors holding Leading ranks who cannot be reduced in rank may be awarded cell, punishment but only for the following offences: -

(a)Gross insubordination;
(b)Desertion and deserting post;
(c)Sleeping on watch;
(d)Dishonesty;
(e)Smuggling;
(f)Quitting ship, boat or working party without leave;
(g)Drunkenness on duty;
(h)Aggravated or fourth (or later) repeated offences of absence without leave;
(i)Flagrant contravention of the censorship regulations;
(j)Gross misconduct on shore when not dealt with by civil authority; and
(k)Continued neglect of duty.

57. General rules for cell punishment: - (1) Every sailor sentenced to cells shall be deprived of any Good Conduct Medal or Badges he may hold and such punishment shall carry with it forfeiture of time and pay for the period of the confinement.

(2) A sentence of cells shall not be postponed or suspended.

(3) A sentence of cells may, at the discretion of the senior officer present, be carried out in a ship or naval establishment other than that in which it was awarded.

58. Routine to be followed: - (1) The day on which the warrant is read shall count as a complete day of the sentence irrespective of the actual time at which confinement commences.

(2) The offender shall pick on all days other than Sundays either 90 grams of tarred hemp or 2.70 kilograms sisal, which shall be weighed when given to him and again when received from him. Alternatively, the offender may be given productive and useful task already learnt by him or which he can easily pick-up.

(3) The offender shall not be allowed the use of his bedding for the first four nights, but in cold weather he may be allowed to use a blanket if considered necessary and he shall be deprived of tobacco, knives, razors, writing material, and all books and papers, except suitable books of instruction:
Provided that the offender may be allowed to read religious books.

(4) The offender shall keep himself and his cell clean and after the third day's confinement he shall be brought on deck under a sentry's charge for two hours a day,

one hour in the morning and one hour in the afternoon and he may be given the normal forums of arms drill during these exercise periods.

(5) A medical officer shall visit the offender night and morning in hot climate and once a day in other cases and the officer of the watch or officer of the day shall visit the offender in his cell once in each watch.

(6) Subject to the provisions of sub-regulation (5) an offender shall not be permitted to hold communication with any person, except when authorized by the Commanding Officer.

(7) A sailor in cell may be permitted to receive letters addressed to him, but such letters shall be opened by him in the presence of one of the Regulating Staff to

ensure that nothing undesirable is enclosed and such sailor shall be permitted to write letters only in exceptional circumstances.

(8) If the Commanding Officer is of opinion, on the advice of the Medical Officer or otherwise, that strict adherence to the provisions of this regulation would permanently affect the health of any offender, the Commanding officer may, for reasons to be recorded in writing, read all or any of such provisions with respect o that offender.

DEPRIVATION OF GOOD CONDUCT MEDAL OR BADGES
(No.9)

59. Deprivation of Good Conduct Medal: - (1) Any sailor to whom a Good Conduct Medal has been awarded may be deprived of it summarily by warrant for misconduct and thereupon the Medal shall be returned to the Commodore, Bureau of sailors, Bombay.

(2) No person shall be deprived of this medal nor shall any punishment entailing the forfeiture of this medal be awarded without the previous approval of a Flag officer of Commodore.

(3) A sailor may be deprived of his medal without being deprived of any Good conduct Badge.

(4) The Commanding Officer may at his discretion take away one badge, but not more, without depriving the sailor of his medal, if his conduct has been in all other respect satisfactory notwithstanding that the deprivation of a badge may necessitate the award of the entry “Good” at the annual assessment of character provided that such discretion shall be exercised in favour of any sailor only once.

(5) If a badge should be taken away without loss of the medal, the medal shall not be worn until the badge is regained.

(6) A sailor who receives any of the following punishments shall be deprived of the medal, namely: -

(a)Imprisonment.

(b)Dismissal.

(c)Detention,

(d)Reduction in rank.

(e)Blank

(f)Cells

(g)Deprivation of two or more Good Conduct Badges.

(h)Deprivation of a badge on a second occasion after the award of the medal; such deprivation shall be noted on the warrant, both in the heading and in the appropriate column.

(7) The medal shall be forfeited when a sailor holding it: -

(a)deserts,

(b)is awarded a character assessment inferior to ”V.G.” except----

(i) as provided in sub-regulation (4),

(ii) when a lower character assessment is awarded consequent upon conviction by the civil authority

(c)is deprived of a Badge and it is not restored to him within 12 months from the date of deprivation.

(8) Forfeiture under clause (a) of sub-regulation (7) shall be implemented on conviction and noted on the punishment warrant and forfeiture under clause (b) and (c) of that sub-regulation shall be implemented immediately after the character has been assessed or the period of 12 months expires whichever is earlier.

(9) A warrant shall not be required for the forfeiture of the medal but the sailor shall be informed formally of the forfeiture and when he appears before the Commanding Officer for this purpose, he shall not be treated as a defaulter, and shall be dealt with after requestment.

(10) Deprivation or forfeiture of the medal shall be noted on page 4 of the sailor's Service Certificate.

60. Restoration of Medals: - (1) When a sailor has been deprived of the Good Conduct Medal or has forfeited it for misconduct, the medal may, with the approval of the Chief of the Naval Staff, be restored: -

(a)at any time, if the sailor has rendered some special service;

(b)on completion of 5 years service with continuous "V.G." character.

(2) When a sailor is discharged before completing 5 years "V.G." service required for restoration of the medal and subsequently re-enters, any further service with "V.G." character may be allowed to count for the purpose of qualifying for restoration.

CAMPAIGN OR COMMEMORATIVE MEDALS

61. Forfeiture for certain offences: - The punishment awarded for treason, sedition, mutiny, cowardice or disgraceful conduct of an un-natural kind shall include the forfeiture of any campaign or commemorative medals, unless the forfeiture is already involved in the conviction or sentence and if the offender is in possession of any medals awarded for gallantry or of any decoration, the tribunal trying him shall not expressly include the forfeiture of such medals in the sentence but a report of the conviction shall be made to the Chief of the Naval Staff.

62. Restoration of Medals: - (1) The awards forfeited under regulation 61 may be restored with the approval of the Chief of the Naval Staff in the following circumstances, namely: -

(a)When a minimum of 3 years service has been rendered, subsequent to the expiration or suspension of sentence, if applicable, or from the date of conviction:

Provided that the "V.G." conduct has been maintained during such service:

Provided further that if the desertion is during the state of hostility, no award instituted for service during that period of hostilities shall be restored unless the individual subsequently rendered approved service in the Armed Forces from which he deserted prior to the termination of such hostilities.

Explanation:

Approved service for the purpose of this class shall be deemed to be paid service of one dayor more subsequent to the expiration of the sentence;

(b)When the required 3 years requalifying service has not been completed owing to: -

(i) Expiry of his period of engagement,

(ii) Death, or

(iii) Wounds or sickness not due to misconduct provided that "V.G." conduct has been maintained from the date of re-entry on expiration or suspension of sentence (or date of conviction as applicable) to the time of discharge;

(c)on : -

(i) re-engagement for pension, after completion of the first period of service;

(ii) Mobilization from the Reserve; or

(iii) Promotion to Petty Officer's or higher rank;

(d)in recognition of meritorious service not necessarily resulting in a decoration or when otherwise specially recommended.

(2) Restoration of medals forfeited for the offences of treason, sedition, mutiny or cowardice shall be permitted only if a person qualifies under clause (a), clause (c) (iii) or clause (d) of sub-regulation (1).

(3) application for restoration of medals under sub-regulation

(4) shall be made to the Chief of the Naval Staff and such restoration may be made: -

(i) free of charge when the original medals have ben returned to the Commodore, Bureau of sailors, Bombay, on being forfeited or when the medals have been forfeited prior to issue;

(ii) on repayment as duplicate issues when the original medals were not recovered provided that a satisfactory explanation of the circumstances of non-recovery is forthcoming.

(5) All restoration of medals under this regulation shall be noted on the sailor's Service Certificate.

DEPRIVATION OF GOOD CONDUCT BADGE(S)

63. Deprivation of Badges: - (1) a sailor who receives any of the following punishments shall be deprived of any Badge he may hold: -

(a)Imprisonment

(b)Detention

(c)Reduction in rank

(d)Cells

(2) Deprivation of two or more badges or deprivation of one badge for the second time the award of L.S & G.C. Medal or Meritorious Service Medal shall involve deprivation of the medal.

(3) Any sailor holding one or more badges may be deprived of them by warrant, except as provided in regulation 119.

(4) One badge so lost may regained by six months"V.G." conduct, and additional badges by further period of six months, reckoned in each case from the date of the preceding restoration.

(5) If, however, a sailor has been sentenced to deprivation a second time within three years of actual service, the qualification for restoration shall be twelve months for the first restoration, and six months for each subsequent restoration.

(6) Time, which does not count, for purpose of award shall not be reckoned towards restoration of badges.

(7) Sailors serving in non-badge ranks shall be eligible for the restoration of badges, although not eligible for the award of further badges.

(8) Restorations shall be made when they become due whether the sailor prefers his claim or not.

REPRIMAND BY THE CAPTAIN (No.10)

64. Reprimand by the Captain: - The punishment of Reprimand by the Captain shall be awarded only to Leading ranks and above and such punishment shall always be recorded.

EXTRA WORK AND DRILL (No.11)

65. Routine to be followed: - Sailors below Leading ranks may be awarded the punishment of extra work and drill up to 14 days when they are to be subject to the following routine: -

(a)Leave to be stopped.

(b)To turn out half an hour before the hands.

(c)To do extra work during non-working hours, from half an hour before the hands turn to until 2100, one hour of which during the dog-watch, to be if possible, drill or boat pulling.

(d)To be mustered frequently.

(e)To have full time for meals except dinner for which half an hour will be allowed; to be employed for the remainder of dinner hour at drill or work.

(f)Drill is to be performed wearing correct drill only.

66. Other instructions: - (1) Extra work shall be substituted drill would have to be carried out in sight of civilian on-lookers.

(2) When possible, extra work shall be done n the department to which the offender belongs.

(3) If a sailor has to keep a night watch either in harbour or at sea, this punishment shall cease at 2000 and he shall not be turned out before the usual time.

(4) When a sailor is under this punishment, he shall be allowed to leave the ship or establishment only on duty though he may be allowed to proceed on long leave at the discretion of the Commanding Officer.

STOPPAGE OF LEAVE (No.12)

67. Stoppage of Leave: - (1) As stoppage of leave, in common with other punishments, commences from the date on which it is awarded and runs continuously from that date and as it may not be awarded for more than 60 days, stoppage of leave should be considered ineffective if given in conjunction with the sentence of imprisonment or detention of 60 days or more.

(2) When stoppage of leave is awarded for leave breaking, it shall not exceed the scale laid down except for aggravated or repeated offences.

(3) Stoppage of leave may also be awarded in appropriate cases for any other offence either as the only punishment or with another punishment.

(4) While under stoppage of leave, a sailor shall not be allowed to leave the ship or establishment except on duty, he may, however, be allowed to proceed on long leave at the discretion of the commanding officer.

(5) The punishment of stoppage of leave shall not involve any other penalties except mustering with sailors under punishment.

EXTRA WORK OR DRILL (No.13)

68. Extra work or drill: - Extra work or drill for not more than 2 hours a day may be awarded for any period not exceeding 7 days to sailors below leading ranks.

69. Other instructions: - Drill shall be performed wearing correct drill order only and when drill would have to be carried out in sight of civilian onlookers, extra work shall be substituted.

ADMONITION (No.14)

70. Admonition: - (1) When a sailor is found guilty of an offence which, of itself or in view of the mitigating circumstances, it not considered to deserve any more serious punishment, he shall be awarded the punishment of Admonition.

(2) The offence and the punishment shall be recorded.

71. Special directions: - In regard to all summary punishments, the following further directions shall be observed, namely: -

(a) **Suspension on Sunday: -** Summary punishments which are carried out on board, except confinement in cells or under a canvas screen, and stoppage of leave, shall be suspended on Sunday, but that day shall count as part of the period for which any sentence is awarded.

(b) **Night's rest: -** Sailors shall not be deprived of their night's rest at sea as a punishment.

(c) **Iron and handcuffs: -** The use of irons or handcuffs shall, except for the purpose of ensuring the safe custody of a prisoner, or for mutinous conduct, be avoided as far as possible.

(d) **G**ags shall not be used and sailors who are noisy or violent shall be confined in a cell for such time as may be necessary.

(e) **Stoppage of pay: -** Pay shall not be forfeited nor shall any stoppage of pay and allowances be made for misconduct, except in cases expressly authorised by the Act, or by these regulations.

(f) **Applicable punishment**: - Every punishment must be applicable to the offence, and to offender at the time he committed the offence of which he stands convicted.

72. Maintenance of records: - Records of offence sheet, minor punishment book, the Daily Record of offences and punishments and Punishment Return shall be maintained in the prescribed forms.

73. Submission of punishment Return: - A punishment return in the prescribed form shall be submitted by the ships and establishment at the end of each quarter to their respective Administrative Authority.

C H A P T E R – III

SUMMARY PUNISHMENTS FOR ARTIFICER APPRENTICES AND BOYS

74. Scale Of punishments: - The following punishments may be awarded summarily to the Artificer Apprentices and boys, Namely: -

No. 1 – Imprisonment not exceeding three months.

No. 2 – Detention not exceeding three months.

No. 3 - Dismissal from the Naval service.

No. 4 - Confinement in cells not exceeding fourteen days.

No. 5 - Isolation not exceeding fourteen days.

No. 6 - Blank

No. 7 - To have meals at the defaulters' table; to stand on deck for half an hour during the Dinner hour; to do half an hour's drill during recreation time; to turn out half an hour earlier and stand on deck;

leave to be stopped, This punishment is not to be awarded for a period exceeding fourteen days.

No. 8 - Stoppage of leave for a period not exceeding twenty-eight days.

No. 9 - Mulcts of pay for improper absence and for unfitness for duty form drinking on shore.

No. 10 - Extra work for a period not exceeding fourteen days.

No. 11 - Reduction in rank of Instructor, Petty officer or leading Boys.

75. Suspension of punishment on Sundays: - Punishments which are carried out on board, other than cells and stoppage of leave shall be suspended on Sunday but that day shall count as part of the period for which any sentence is awarded.

76. Delegation of powers: - (1) Commanding Officer of training establishments and training ships may delegate to the Executive officer, of or above the rank or relative rank of Lieutenant, power to impose the following punishments mentioned in regulation 74 to the extent mentioned against each: -

No. 7 – in full.

No. 10 – not exceeding seven days.

(2) The Commanding Office may, by written authority delegate to the under mentioned officers whenever and so long as he may deem fit, the power to award the following punishments mentioned in regulation 74 to the extent mentioned against each: -

(a)Training Commander of or above the rank of Lieutenant or relative rank of Lieutenant: -

No. 7 – for seven days.

No. 10 – for seven days.

(b)The officer of the Day or officer-in-charge of workshop of the rank of Lieutenant or relative rank of Lieutenant: -

No. 10 – for one day.

All such punishments shall be recorded in a special book kept for the purpose and such power shall be confined to cases of misconduct on the part of individual Apprentices or Boys, and shall not be exercised with respect to case of misconduct on the part of a group of Apprentices or Boys.

77. General regulations applicable to punishments: - In administering punishments under this Chapter, the general regulations contained in Chapter III and IV shall be adhered to wherever applicable and so far as they are not inconsistent with the provisions of this Chapter.

78. Punishment of Instructors, Petty Officers and Leading Boys: - (1) Instructors, Petty Officers and Leading Boys and Apprentices shall be reduced a lower rank before being awarded punishment No. 7 mentioned in regulation 74 and any higher punishment.

79. Confinement in cell (No. 4): - Confinement in a cell shall be awarded only in exceptional circumstances like short term of imprisonment or detention.

80. Isolation (No.5): - Apprentices and Boys who have been awarded the punishment of isolation shall be subject to the following restrictions and conditions, namely: -

(a)They shall attend all instruction.

(b)When not undergoing instructions, they shall be confined in a suitable place set aside for the purpose.

(c)They shall be allowed the use of bedding.

(d)They shall keep themselves and their place of confinement clean.

(e)They shall be allowed the use of religious and instructional books.

(f)The shall be deprived of tobacco, knives and all books, papers or writing material, except for instructional purposes:

Provided that they may be allowed to write letters to their homes, the number of such letters not exceeding one per week or a total of two during the period of punishment.

(g)They shall wear a distinctive dress to indicate that are undergoing isolation punishment and when blue uniform is worn, it shall consist of a broad white duck band and, when white uniform is born, of a broad blue band and the band shall be attached securely to the sleeve of each arm and shall be worn continuously during the period of punishment.

(h)They shall undergo one hour's physical drill daily to be performed in the open air whenever practicable.

81. B L A N K

82. Stoppage Of leave (No.8): - (1) Great care shall be exercised before awarding stoppage of leave for a period in excess of fourteen days.

(2) Apprentices and boys undergoing this punishment shall be employed for a maximum of one hour daily during their recreational period on any work.

83. Extra Drill (No. 10): - Extra drill shall be done as squad drill with arms and upto one hour per day.

84. Reduction in lower rank (No. 11): - Reduction in lower rank shall be compulsory for leave breaking for over twelve hours.

85. Records: - (1) Separate daily records of offences and punishments shall be maintained for: -

(a)Artificer Apprentices;
(b)Boys;
(c)Other sailors borne in the establishment.

(2) Such daily records shall contain a record of every punishment inflicted and by whom awarded, those awarded by the Executive Officer being initialled by him and shall be examined and signed by the Commanding Officer at least once a week after satisfying himself that all punishments have been duly entered.

(3) A weekly copy of the entries made on the prescribed form shall be displayed on the notice board or the mess deck or other suitable place.

86. Punishment Returns: - At the end of each quarter the punishment from the daily record of offences shall be abstracted into the quarterly return of punishment and forwarded to the Administrative Authority concerned.

87. Previous offences: -When an offence is being dealt with under the provisions of this Chapter, all previous offences committed by the person concerned shall be taken into consideration when award in punishment.

88. Charge for theft: - Charge for theft shall not be made except when there is clear evidence of criminal intent.

Illustration: - When a Apprentice or boy is found in possession of an article belonging to another, the Apprentice or boy concerned shall not be punished for theft unless the Commanding Officer is satisfied that when it was taken there was an intention to cause wrongful loss to a person or wrongful gain to himself or another person. Unless the Commanding Officer is satisfied of this, or if he is satisfied that the Apprentice or the boy, as the case may be, really found the article lying about, he should be charged with being guilty of neglect to the prejudice of good order and Naval discipline in not handing over to the proper authority the articles which, to his knowledge, had come into his possession without the consent of the owners,

C H A P T E R - IV
DISCIPLINE

ARREST-SUSPENSION OF SENTENCES-PRISONS AND DETENTION QUARTERS – DESERTERS – CIVIL AUTHORITY

Section		Regulations
I	Arrest and Naval custody	89 – 95
II	Suspension of sentences	96 –105
III	Miscellaneous provisions concerning provision and Detention Quarters	106 – 114
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SECTION I – ARRREST AND NAVAL CUSTODY

89. Arrest: - (1) If an officer disobeys orders or otherwise misbehaves, he may be placed under arrest, and a report of the particulars of the offence shall be forwarded by the Commanding officer to the Chief of the Naval Staff as soon as possible, but if the Commanding officer should be induced from any circumstances to release him from arrest, and to withdraw or allow to be withdrawn the charges against him, such officer shall return to his duty without prejudice to future investigation of any complaint which the Commanding Officer may make relative to such arrest.

(2) If the Commanding officer considers the cause for placing an officer under arrest to be of such a nature as to necessitate it being brought before a court-martial, but if circumstances of the service should render it necessary that the officer under arrest should be released without the withdrawal of the charge against him, he may so release him, and the officer or sailor shall return to his duty accordingly, without prejudice to his future trial or the enquiry into the charge on which he was placed under arrest.

(3) When an officer or sailor is placed under arrest, the Commanding Officer shall take care that no more restraint is put upon his personal liberty than the discipline of the service requires and the nature of his offence may render expedient.

Explanation: - Arrest is not a punishment but only a means adopted to ensure the safe custody of an offender until he can be dealt with adequately.

90. Prescribed officer for purposes of section 85: -The prescribed officer for the purpose of section 85 shall in the case of sailors be the Executive Officer.

91. Suspension of an officer from duty: - Suspension of an officer (independent of arrest) may be ordered by the Commanding Officer (of or above the rank of Lieutenant commander) of the ship to which the officer belongs or by any other superior authority: -

(a)When the officer submits his case for investigation;

(b)in any case in which the officer's character or conduct as an officer an a gentleman is impugned;

(c)when the officer is charged with any offence triable by court-martial; or

(d)when any criminal proceedings are pending against him in an ordinary criminal court.

92. Naval Custody: - (1) The Commanding Officer shall be responsible for the safe custody of every person, offender, or prisoner who is placed in Naval Custody in the ship or establishment.

(2) such custody may be open or close, according to the circumstances of each case and at the discretion of the Commanding Officer.

Explanation: - Open custody involves only such restraint as may be necessary for safe custody, whereas close custody involves deprivation of all liberty and continuous, supervision, and is equivalent to confinement in the sense in which it is used in sub-section (2) of section 151.

93. Offenders awaiting imprisonment or Detention: - Persons under sentence of imprisonment or detention, while on passage in Indian Naval Ship, shall not be called upon to do any duty except in case of emergent need and they may be dealt with as prisoners at large (kept in open custody), when the circumstances permit, but they shall be restrained or confined, if necessary, for safe custody or to prevent further misconduct.

94. Offenders under sentence: - Offenders who may be in Naval custody while undergoing a sentence of imprisonment or detention shall, as far as possible, be subject to the following: -

(a)They shall not a allowed to communicate by letter with any person nor to receive any letter or visit without permission of the Commanding Officer and any letters written by or to them with such permission shall first be read by the Commanding officer of the ship, who shall use his discretion in Communicating or withholding their contents.

(b)Any visit allowed to them must take place in the presence of an officer or Master Chief Petty Officer or Chief Petty Officer.

(2) Such measures as are necessary for the proper enforcement of the provisions of clauses (a) and (b) of sub-regulation (1) shall be taken in Indian Naval Ships and no departure from the said provisions shall be made, save in exceptional circumstances, when the commanding Officer may act according to his discretion, reporting the circumstances to the Chief of the Naval Staff.

95. Sickness of accused persons and offenders: - (1) An offender awaiting transfer to prison or detention quarters or a person awaiting trial, by court martial or otherwise, for a serious offence, shall not be sent to hospital without the sanction of the senior officer present and where such offender or person is sent to the hospital, the Commanding Officer or the Medical Officer-in-Charge of the hospital shall be informed that the person is to be considered as under arrest and shall also be informed into which of the following categories he falls: -

(a)Offender sentenced on……to…….(period) imprisonment or detention by court-martial;

(b)

(i) Accused person-awaiting trial by court-martial or a criminal court.

(ii) Recovered deserter whose case has not yet been dealt with.

(iii) Accused person whose case has been investigated and charge proved, but punishment not awarded.

(c)Offender sentenced summarily on…….to…….(period) imprisonment or detention or confinement in the cell

(d)Accused person awaiting summary trial.

Details of the nature of the offences, the punishment awarded and the number and date of the punishment warrant shall also be sent, if appropriate.

(2) An officer of sailor being an offender awaiting transfer to prison or a person awaiting trial, by court martial or otherwise, for a serious offence, shall not be brought forward for medical survey with a view to invaliding without the special directions of the Chief of the Naval Staff and when a survey is held under such directions, the result shall be reported by the surveying officer specially to the Chief of the Naval Staff who shall, subject to the provisions of sub-regulations (3) to (6) decide as to the disposal of the person concerned.

(3) The Chief of the Naval Staff shall not, in consequence of the report of the surveying officer, authorise any step which will result in a accused person escaping trial unless the surveying officer certifies that his mental condition at the date of the alleged offence was such that he was not responsible for his actions, or that his physical or mental condition is such that even the fact of being tried, apart from any sentence that might be awarded, would be likely to impair his health permanently and if the surveying office certifies that a person awaiting trial for desertion was not responsible for his actions at the time of alleged desertion, the Chief of the Naval Staff shall obtain the directions of the Government whether the notation of desertion is to be removed.

(4) The Chief of the Naval Staff shall not, in consequence of the report of the surveying officer, authorise any step which will result in a person under sentence of imprisonment or detention escaping the residue of the sentence, unless the surveying officer certifies that the offender is medically unfit to undergo even a modified prison or detention routine, as the case may be and if such a medical certificate is furnished, the offender may, provided that he is not to be dismissed or discharged for misconduct, be invalided from the serviced, but care shall be taken that the sentence is duly entered in his service Certificate and elsewhere as necessary.

(5) The medical certificate furnished under sub-regulation (4) shall be forwarded to the Government in order that the residue of the sentence may formally be remitted.

(6) If the surveying officer certifies that the offender's mental condition on the date of his offence must have been such that he was not then responsible for his action, the Chief of the Naval Staff shall immediately obtain the directions of the Government whether the sentence is to stand or be annulled.

SECTION II – SUSPENSION OF SENTENCES

96. Suspension of sentence: - (1) The power of suspending a sentence of imprisonment or detention under section 164 maybe exercised when a sailor of good reputation has committed himself because of some long continued strain, or in circumstances which lead the Commanding Officer or superior authority to believe that he will retrieve his good name, or when the sailor's services are required for a dangerous or arduous duty which would otherwise be avoided, or to enable a deserter or persistent leave breaker who is considered to be capable of reformation to be transferred to sea, so that he may be removed from the temptation to repeat his offence.

(2) Officers shall, as far as possible, use this power freely whenever they can do so without detriment to discipline, and when the offender is likely by his conduct, to justify the confidence placed in him; but a sentence shall never be suspended when it is intended that the offender shall not return to the service

97. Court-martial sentence: - (1) If the officer who ordered the court martial or any other officer having power to suspend a sentence considers, either upon a perusal of the minutes or upon receiving recommendation from the court that the sentence should be suspended, he shall instead of issuing a committal order, give an order in writing that the sentence is to be suspended until an order of committal is issued.

(2) When an order suspending a court-martial sentence has been made under sub-regulation (1), the accused shall be -

(i) informed by his Commanding Officer that it has been decided to suspend his sentence, that his case will be reviewed periodically, and that, if his subsequent conduct is such as to justify a remission of the sentence, it will be remitted,

(ii) warned that, if the continuity of his "V.G." conduct is broken or if his behaviour is in any way unsatisfactory while he is on probation, the sentence may be enforced; and

(iii) released from custody.

(3) In all cases where a sentence passed by court-martial is suspended, the intimation thereof shall be sent immediately to the Chief of the Naval Staff together with a statement of the reasons for suspension of the sentence.

98. Summary punishment: - (1) With the concurrence of the authority who approves a punishment warrant for imprisonment or detention, the Commanding Officer may, instead of issuing a committal order, give and order in writing that the sentence shall be suspended until an order of committal is issued and if such authority is not present at the place, the Commanding Officer shall use his discretion in the matter.

(2) At any time after a committal order has been issued, the office who signed committal order may order the residue of the sentence to be suspended.

(3) When the Commanding Officer suspends a sentence, he shall make a report thereof when the punishment Return is forwarded.

(4) When a sentence has been suspended, either before or after an order of committal has been issued, the offender shall be released from custody and informed by his Commanding Officer that his case will be reviewed periodically, and that the enforcement or remission of the remaining portion of the sentence will depend on his conduct remaining "V.G.".

(5) When a sailor whose sentence has been suspended is transferred to another ship or establishment, the fact that a sentence is under suspension shall be notified immediately by letter to his new Commanding Officer, who should also be told

whether the sailor's conduct to-date has been such as to deserve remission in due course.

99. Period of suspension: - (1) A sentence which has been suspended, either before or after a committal order has been issued, shall remain suspended until such an order has been issued or the sentence has been finally remitted.

(2) A sentence may remain suspended for twelve months, unless the sailor commits himself in the meantime, but under no circumstances shall the sentence remain suspended for a longer period except when the issue of a committal order has not been possible because the sailor has deserted or been absent without leave.

100. Reconsideration of court-martial sentence: -(1) A court-martial sentence which has been suspended may be reconsidered at intervals of not more than three months, unless it has been put into execution in the meantime, and on these occasions the individual shall be brought before the Commanding Officer, who should take the opportunity of reviewing the circumstances and warning him that he is still under probation.

(2) The Commanding officer shall make a report on the sailor's conduct, recommending whether the sentence should remain suspended or be remitted, to the Chief of the Naval Staff who shall, if he considers that the offender' conduct justifies remission, remit the sentence accordingly.

(3) If at any time during the probationary period the continuity of a sailor's "V.G." conduct is broken or behaviour is in any way unsatisfactory, the sentence may be enforced and the Commanding Officer shall forward a report as in sub-regulation (2) and a committal order shall be issued by the Chief of the Naval Staff or by the officer ordering the court-martial by which the sailor was sentenced.

(4) Administrative Authorities shall ensure that the reconsideration of suspended sentence is duly carried out at intervals of not more than three months.

101. Reconsideration of summary sentence: - (1) The Commanding Officer of the ship to which the sailor for the time being belongs shall reconsider the sentence as in the foregoing regulation and decide whether the rest of the sentence shall be finally remitted or remain suspended, informing the sailor of his decision.

(2) If during the probationary period the continuity of the sailor's "V.G." conduct is broken or his behaviour is in any way unsatisfactory, the commanding Officer shall enforce the sentence by issuing the committal order.

(3) The review, remission or enforcement of a suspended sentence shall be reported when the punishment Return is forwarded.

102. Offences during suspension: - (1) If a person whose sentence has been suspended commits a further offence for which he is sentenced to imprisonment or detention, any officer having power to issue a committal order in respect of the second sentence or any officer having power to issue or re-issue committal order in respect of the first may, subject to any recommendations to the contrary made by the court or officer who tried him for the second offence, order the sentence to run concurrently or consecutively, but,, if two sentences of detention amount in the aggregate to more than two years, the excess shall be remitted and where the second sentence is awarded under the Act and is one of imprisonment, a previous sentence of detention shall be remitted.

(2) A sentence of detention shall not be awarded if the offender is already under sentence of imprisonment.

103. Consequential penalties: - (1) If a sentence is suspended before a committal order is issued, any consequential penalties which would be entailed by the infliction of the suspended punishment shall also be regarded as suspended unless and until the committal order is issued and any additional punishments which accompany a sentence of imprisonment or detention, like mulcts of pay, stoppage of leave, but are not consequential thereon, shall not be suspended.

(2) If a committal order is issued and the sentence is subsequently suspended, or if a sentence is suspended but a committal order is subsequently issued all the consequential penalties and other consequences, namely: -

(a)reduction in rank;

(b)deprivation of badges and medal;

(c)effect upon character;

(d)loss of pay and time;

shall be enforced in respect of so much of the sentence as is actually served.

(3) If a sentence which has been suspended is subsequently carried out, reduction in rank, deprivation of badges and medal, loss of pay and time shall take effect from the date of committal.

(4) When a sentence of imprisonment or detention is suspended after committal, reduction in rank and deprivation of badges and medal shall take effect from the date of sentence and loss of pay and time from the date of committal.

(5) For all sentences, effect upon character shall operate from the date of sentence.

104. Other consequential effects: - (1) A sentence of imprisonment or detention, even if suspended shall automatically cause a break in "V.G." conduct.

(2) If, at the time of assessment of character, an offender's sentence, or a portion thereof, is under suspension, the only penalties which shall be taken into consideration are the portion such sentence and the consequential penalties (if any) which have actually been enforced and if the suspended sentence or the suspended portion thereof is subsequently enforced, the character previously assessed shall be altered to that which is appropriate to the full sentence.

(3) All alterations in character under sub-regulation (2) shall be reported to the Commodore, Bureau of sailors, Bombay.

(4) Where a suspended sentence or the suspended portion of a sentence is carried out in the year following that in which the sentence was awarded, together with the sentence of imprisonment or detention, only the latter sentence shall be taken into account in assessing character at the end of the year, whether such sentence run consecutively or concurrently.

(5) If an offender under a suspended sentence deserts and is not recovered, or is not claimed for further service, his character shall be assessed as if the sentence has been carried out.

105. Record of suspension, etc. of sentence: - 91) The suspension of a sentence in whole or in part shall be recorded with full particulars of the offence and sentence on the promotion and Conduct Record Sheet

(2) Notations shall be made as follows in the "Time forfeited" column on page 4 of the Service Certificate, each notation being authenticated by the Commanding Officer's signature, with the date on which the sentence was either suspended, remitted or enforced: -

(a) Suspension of sentence before committal

(b) Suspension of sentence after committal

(c) Remission of suspended

(e)Committal or re-committal following suspension of

Put "suspended" alongside the notation of the number of days awarded.

Insert in the appropriate column the number of days served, adding "Residue Suspended".

Rule through the notation "Suspended" or Residue suspended and insert notation "Remitted" or Residue remitted.

Rule through the notation "Suspended" or "Residue suspended" and insert notation "Committed" or "Recommitted" as requisite.

sentence or of residue of sentence.

(3) Care shall be taken that the original notation which is ruled through is not obliterated.

SECTION III – MISCELLANEOUS PROVISIONS CONCERNING PRISONS AND DETENTION QUARTERS

106. Selection Of place of confinement: - The space provided on the warrant for the insertion of the name of the jail or detention establishment to which the prisoner is to be sent, shall be completed in accordance with the local standing orders or in the absence of such orders in accordance with the directions of the officer approving the warrant.

107. Visiting Jails: - The Administrative Authorities shall obtain information as to the state of jails in which Indian Naval personnel normally serve terms of imprisonment, by directing an officer or officers of the rank of Commander or above to visit them for time to time, with the permission of the civil authorities and report on them.

108. Medical examination: - A Medical Officer shall examine the offender prior to his commitment to a prison or detention establishment as the case may be, to acertain whether he is physically capable of under-going a sentence, and again on his return to the ship.

109. Committal order: - The order for imprisonment or detention, being the authority for the Superintendent of a jail or for the officer in command of the detention establishment to receive and detain an offender, and to release him at the expiration of his sentence, shall be made out on the prescribed form.

110. Persons sentenced, how borne: - Persons sentenced summarily or by court-martial to imprisonment shall be borne on ship's book unless they will be discharged direct from the prison to civil life, when they are to be discharged from ship's book from the time of arrival at the prison or from the time the order for discharge from the Service is received.

111. Civil custody: - Sailors convicted by the civil authority, whether sentenced to imprisonment or not, shall continue to be borne on the books of the ship to which they belong unless they will not return to that ship, when they shall be dealt with as directed in regulation 110.

112. Sailors from ships about to sail: - (1) Sailors undergoing imprisonment or detention awarded summarily may, at the discretion of the senior Naval Officer present, be removed from confinement for the purpose of rejoining their ships before sailing, if a very few days of the sentence remain unexpired, or at any time, if the completion of the sentence will involve any serious inconvenience to the service.

(2) If the commanding officer should consider it advisable that sailors should be so released, he shall report the matter at least three days before hand to the senior Naval Officer present and, with his approval, may issue an order in writing for the release of the offender.

113. Dismissal after confinement: - When a sailor has been dismissed or discharged from the Service, notice thereof shall be given by the Commanding Officer to the authorities at the place of confinement to which he is sent in order that he may be set at liberty at the expiration of his sentence.

114. Escorts: - (1) A sufficient escort shall accompany each offender sent to confinement.

(2) The commanding Officer of a ship on whose books a sailor is borne on the date of release shall make arrangements for some proper person or persons to be at the place of confinement at the exact time when the sailor may be entitled to his release, to receive and conduct the offender on board; when the sentence expires on a Sunday the offender is entitled to be released on the preceding Saturday.

SECTION IV – CIVIL AUTHORITY

114A. Persons subject to the Act charged before Magistrate: - The rules regarding the procedure to be followed in cases where a person subject to Naval Law is brought before a Magistrate charged with an offence for which he is liable to be tried by a court-martial shall be as in Appendix IV;

115. Arrest by civil authority: - (1) The Commanding Officer shall afford every facility to the civil authority in detecting and apprehending persons serving on board whose arrest is required on any criminal charge, but he shall require any police officer, or other

civil officer coming on board to search for or apprehend such persons, to produce his warrant or to show satisfactory evidence of the capacity in which he acts.

(2) No officer or sailor in Naval custody shall be claimed by the civil authorities for trial in a civil court, except on a direction of the nature of Habeas Corpus made by a High Court or under an order by the Government in this behalf.

(3) Such officer or sailor may, however, be surrendered voluntarily to answer a criminal charge if such charge is in respect of a civil offence more serious than the Naval Offence for which he is held in Naval custody;

Provided that the previous approval of the Administrative Authority concerned shall, wherever possible, be obtained before such a course is taken.

(4) Where a sailor has been arrested by any civil authority and afterwards admitted to bail, and the ship to which he belongs leaves for port before he is dealt with, he shall, if possible, be lent to a ship remaining at the port.

(5) A sailor who is left behind by ship because of proceedings against him in a civil court, whether he is subsequently acquitted or convicted, shall be liable for the whole cost of rejoining his ship, but special cases in which, owing to the movement of the ship, it is considered that this liability should not be enforced, may be represented to the Chief of the Naval Staff.

(6) Where conviction has resulted, the travelling expenses incurred by the sailor as well as the penalty enforced by the court shall be taken into account by the Captain in considering the imposition of Naval penalties and in similar circumstances abroad, the matter shall be reported to the Chief of the Naval Staff for decision whether the sailor should bear the whole or any part of the expense of rejoining his ship.

(7) The Commanding Officer shall permit writs and other legal processes to be served on board provided no serious inconvenience is thereby caused to the service.

(8) Then a subpoena witness summons requiring attendance at any court of justice is served upon a member of ship's company, the Commanding Officer shall grant such leave as may be necessary, provided that the efficiency of the Service is not impaired there by and if, in the opinion of the Commanding Officer such leave cannot be granted without so impairing the efficiency of the service, he shall immediately report the circumstances, attaching all relevant documents, to the Administrative Authority for directions, and at the same time inform the officer of the court.

(9) Every Commanding Officer shall comply immediately with an application from the civil authority for an escort for a person under his command who is in civil custody.

116. Report of arrest, summons or conviction by the civil authority: - (1) It is the duty of every officer who may be arrested by any civil authority, or may be summoned to appear before a court on a criminal charge, to report such arrest or summons, and any subsequent conviction or acquittal without delay to his Commanding Officer.

(2) Such arrest, summons or conviction of an officer shall be reported to the Chief of the Naval Staff who shall inform the Government.

(3) The arrest or summons of a sailor by any civil authority shall also be reported to the Chief of the Naval Staff who shall inform the Government when a sailor is

charged with a serious offence like murder and rape or when there is likely to be more than the usual publicity.

(4) The provisions of this regulation shall, apply also to cases where the civil authorities hand over the Naval offender to be dealt with under the Act, as well as where they institute proceedings in the civil courts.

117. Attendance at trial: - (1) The attendance of an officer to watch the civil trial of an officer or a sailor in India shall be at the discretion of the accused's Commanding Officer, who shall consider the gravity of the charge, the distance from the ship to the court and the exigencies of the service.

(2) If called upon by the court to testify to the character and antecedents of the accused, the officer who attends shall not give information of minor offences against the discipline of the Service unless specially required by the court to do so, nor shall he take a sailor's promotion and Conduct Record Sheet with him to the court, since the nature of such offences and the contents of the said sheet are liable to be misunder-stood to the prejudice of the accused.

(3) If the accused be committed for trial, the officer watching the case shall mention to the accused the desirability of asking the court whether he is not entitled to bail or, if not entitled, whether he may not have bail.

118. Consequences of conviction by civil authorities:- When a sailor being charges for a civil offence appears before a civil court and is sentenced or placed on probation, an offence has been proved against him and he shall be liable to forfeit the pay and service for the time spent in civil custody and he shall be liable to incur the Naval penalties under the provisions of regulation 119.

119. Forfeiture of pay and service:- (1) A sailor shall forfeit one day's pay and service for each day (or part of a day) during which he is detained by the civil authority as part of the sentence and shall also, as a general rule, forfeit pay and service on the same scale for time spent in custody while awaiting or attending his trial

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(2) The Chief of the Naval Staff may remit such penalties whenever the offence is venial and brings no discredit on the Service; and also in cases where there are special grounds for such remission.

(3) Where a sailor is on leave when arrested by the Civil authority, his time and pay shall not be stopped for that portion of his absence during which he was on leave.

(4) There may be three or more separate periods for which a sailor forfeits pay and time in respect of a single conviction:-

(a)from the date of his arrest (unless he is on leave at the time) or from the expiration of his leave (if he is arrested during leave and is still in custody when his leave expires);

(b)from the date of surrender to bail (if he is allowed to return to his ship pending trial);

(c)from the date of a sentence of imprisonment.

Any such periods shall be shown separately in the "Time forfeited" column of the service certificate, even if some of them are continued..

(5) Where the offence is one that has brought disgrace or discredit on the uniform, the service, or the position which the offender holds, he may be awarded the following Naval penalties with the prior approval of the Chief of the Naval Staff, namely:-

(a)break in continuity of "V.G" conduct, (if this penalty is enforced, the date of conviction is to be noted in the conduct sheet as the date of commencement of "V,G" conduct);

(b) award of an inferior character on the next occasion of assessment;

(c)deprivation of Good Conduct Badges;

(d)deprivation of L.S. & G.C./Meritorious Service Medal.

(6)When the offences are specially serious or repeated, the sailor may be reduced in rank or discharged D.M.L.R. but such penalties shall be authorised only by the Chief of the Naval Staff and along with the proposal of such penalties the offender's Service Certificate shall be forwarded with the prescribed form. (7) A decision by the Chief of the Naval Staff in the imposition of Naval penalties shall be obtained on the prescribed form as soon as possible after the sailor's conviction.

(8) Forfeitures of pay and time enforced under sub-regulation (4) shall take effect from the commencement of each separate period of absence.

(9) If any of the penalties specified in sub-regulation (5) and (6) are enforced, they shall take effect from the date of conviction, except in the case of discharge S.M.L.R. in which case the date shall be decided by the Chief of the Naval Staff and similarly, when a sailor appeals, and the appeal is quashed, the original date of conviction shall stand for the purpose of applying any Naval penalties awarded.

(10) The decision shall be noted with all necessary particulars on the Conduct Sheet and the service certificate, the prescribed from the being finally enclosed in the quarterly return of punishment.

(11) A warrant shall not be required for any Naval Penalty.

120 Disposal of personal effects:- In the case of an individual sentenced to imprisonment who is discharged S.N.L.R.., his effects and any pay that may be due to him up to the date of discharge shall be forwarded to the Superintendent of the jail to be delivered to the sailor on the expiry of the period of imprisonment.

121 Conviction of an Officer by Civil Court:- (1) Where, upon the conviction of an officer by a civil court, the Central Government or the Chief of the Naval Staff considers that the conduct of the officer which has led to his conviction renders his further retention in service undesirable. a certified copy of the judgement of Civil court convicting him shall be submitted to the Central Government with the recommendation of the Chief of Naval Staff as to the termination of the officer's service in the manner specified in sub-regulation (2).

(2)While submitting a case to the Central Government under the provisions of sub-regulation (1),the Chief of the Naval Staff shall make his recommendation whether the officer's service should be terminated, and if so, whether the officer should be:-

(a)dismissal from the service; or
(b)discharged from the service; or
(c)called upon to retire; or
(d)called upon to resign.

(3) The Central Government after considering the judgement of the Civil Court and the recommendation of the Chief of the Naval Staff may dismiss or discharge from the service the officer with or without pension or call upon him to retire or resign, and on his refusing to do so, the officer may be compulsorily retired from the service on pension or gratuity, if any admissible to him.

122 <u>Notice of Appeal</u>:- When notice appeal to highercivil court is given, in the case of a sailor the Administrative Authority concerned shall give consideration to the suspension of the imposition of Naval penalties pending the result of the appeal and in the case of an officer, the Central Government shall in each case, after taking into account the recommendations made by the Chief of the Naval Staff, consider whether further action required to be taken against the officer following his conviction in the lower court should be withheld until the result of the appeal is known.

123 <u>Copies of judgement</u>:- Whenever a person subject to Naval Law has been tried by a civil court a copy of judgement of the court will be supplied free of cost on an application by the Chief of the Naval Staff or Commanding Officer.

124 **Debt Cases:-** The Commanding Officer shall be justified, under sub-section (1) of section 21 in not allowing any sailor belonging to his ship to be taken under any warrant, process, or writ of execution issued by any court public servant for any debt or alleged debt.

125 **Report of refusal to surrender:-** Every case of refusal to surrender an officer or sailor to warrant, summons or other process, shall at once be reported fully to the Chief of the Naval Staff, with the grounds or such refusal and the offences with which the officer or sailor is charged on shore.

126 **Legal advice, engagement of counsel and defence of personnel in civil court:-**

(1) The rules regarding the engagement and remuneration of counsel for the prosecution of offenders in a civil court and the defence of sailors charged with criminal offences shall be as detailed in Appendix II.

(2) When the defence of an officer is considered desirable the case shall be reported to the Chief of the Naval Staff for obtaining the orders of the Government there on.

SECTION IV – DESERTERS AND ABSENTEES

127 **Absentees:-** Sailors who may have quitted their ships without leave, or have overstayed their leave, or have improperly absented themselves when detached on duty, and who may be apprehended before the expiration of seven days, beyond the precincts of a dockyard or other Government establishment in which they may have been employed, shall be treated either as absentees or as deserters, according to circumstances when are to be judged by their respective Commanding Officers.

128 **Arrest by civil authority:-** If an absentee without leave is arrested by the Civil authority on another charge and is subsequently handed over to the Naval authorities, his absence without leave shall be regarded as ceasing from the date of his arrest by the civil authority.

129 **Deserters and absentees on sailing:-** When any person, below the rank of an officer, belonging to a ship under ailing orders remains absent without leave, the Commanding Officer shall place the notation R.Q. against his name on the ship's books and shall furnish the senior Naval Officer present, his Administrative Authority and the Chief of the Naval Staff with a list of any such absentees.

130 **Removal of R.Q**:- If any such absentee should return or be apprehended and brought back after the ship has sailed, he may be:-

(a) sent to his proper ship, or

(b) dealt with in the ship to which he is brought.

Note:- Course (a) is preferable from the disciplinary point of view provided that it does not involve undue delay in the investigation of the case. If the sailor is convicted of desertion, the notation 'R' shall be substituted for the notation 'R.Q.' against his name in the books of the ship from which he absented himself. If the intention to desert is not proved, the notation "R.Q" shall be removed. The officer who deals with the case summarily is responsible for seeing that the necessary action is taken in accordance with this regulation.

131 **Disposal of effects:-** The clothes and effects of such absentees shall be sent to commodore, Bureau of sailors, Bombay or senior Naval Officer at the port before the ship sails.

132 When absentees to be marked 'Run':- (1) If any person absents himself from his duty without leave and fails to give a good and sufficient reason for his absence, he shall be checked accordingly on the ship's books on the day of his absence if his absence began before noon, and on the day following, if his absence began afternoon .

(2**)** If the absentee had not returned at the expiration of seven days, he shall, irrespective of the 12 O' clock rule for checking, be marked 'RUN'. The letter 'R' shall be placed against his name on the ship's books on the day on which absence began, his pay terminating on and including that date and he shall not be discharged from the ship's books until authority for his discharge is given by the Commanding Officer of the ship.

(3)When an absentee is marked 'RUN', he shall not be entitled to receive the pay, which has accrued to the date of his discharge, unless, the court or officer by whom he is tried, or the chief of the Naval Staff otherwise directs.

(4)When a sailor has been absent from his duty without leave for more than three months, the Commanding Officer may authorise his discharge from the ship's books, but no such authority for discharge from the ship's books shall be given if there is reason to suspect that he may be required to answer charges other than desertion and if it is possible that he may be required to answer other charges, the circumstances shall be reported to the Chief of the Naval Staff and the absentee shall remain on the ship's books until the approval of the Chief of the Naval Staff is obtained for his discharge there from.

133. Removal of 'R' by Commanding Officer:- (1) If the Commanding officer is satisfied that there was no intention to desert , he shall remove the 'R' placed against the name of the absentee under Regulation 132 provided the absentee has not been convicted summarily as a deserter, and cause payment to be made of the pay accrued, the case being reported to the Chief of the Naval Staff for information.

(2) Whenever persons are treated summarily as deserters, the letter 'R' shall be placed against their names on the ship's books.

134. Removal of'R' by the Naval Staff:- (1) A sailor who completed the following service with continuous "V.G." conduct may apply to his Commanding Officer for the removal of the letter 'R' from his record:-

(a)three years within 5 years of service after punishment for desertion; (b)four years within nine years of service after punishment for desertion; (c)six years within any time after punishment for desertion.

The period of five and nine years shall be reckoned from the day after the completion of the sentence served for desertion, or, if the sentence has been suspended before committal, from the day after the award of the punishment.

(2) If the Commanding Officer considers the sailor's general behaviour to have been satisfactory and is able to recommend him for the concession, he shall forward the application to the Chief of the Naval Staff for consideration along with the original service certificate and promotion and Conduct Record Sheet of the sailor.

(3) Where a sailor has deserted more than once, an application under clause (a), clause (b) or clause (c) of sub-regulation (1) may be made for the removal of last 'R' and if this is approved, a sailor may begin to qualify for the removal of a previous 'R' under the same provisions, the period office or nine years being reckoned from the date of removal of the last 'R' and similarly with any further notation of 'R'.

135 Desertion after re-management:- Whenever any person, who has previously deserted**,** is again convicted of desertion after he has re-engaged to complete time for

pension, the question of his retention in the service shall be referred to the Chief of the Naval Staff as soon as offender has been dealt with

136. **Forfeiture of medals on desertion:-** (1) When a sailor is dealt with summarily on a charge of desertion and is found guilty, good conduct Badges shall be forfeited and a definite decision shall be recorded as to the retention or forfeiture of gallantry medals or decorations, including decorations which have been gazetted but are not yet in the sailor's possession.

(2) A forfeiture of campaign medals and commemorative medals shall not be remitted.

(3) When a sailor is convicted of desertion by court-martial, no mention shall be made in the sentence unless the court remits the forfeiture in accordance with sub-regulations (5), (6) and (7)

(4) When the offence is desertion during hostilities, the Naval tribunal trying the case shall not remit the forfeiture of decoration and medals but shall report to the Chief of the Naval Staff the forfeiture of any medal awarded for gallantry or of

any decoration. The L.S. & G.C. Meda land Good Conduct Badges shall automatically be forfeited.

(5) When the offence of desertion has not been committed during hostilities, the tribunal shall remit the forfeiture of any decoration or medal awarded for gallantry, but shall not remit the forfeiture of campaign or commemorative medals.

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(6) In respect of medals other than the L.S. & G.C./Meritorious service medal the decision as to forfeiture or retention shall be at the discretion of the Naval tribunal but when the offence is tried summarily, forfeiture shall be subject to the approval of the chief of the Naval Staff.

(8) Any remission or forfeiture which is not in accordance with the provisions of this regulation shall be reported to Chief of the Naval Staff for obtaining the orders of the Government.

(9) A deserter who is not reclaimed shall be disqualified for the grant of any medal or decoration, which is not already awarded for service prior to desertion, but shall not be disqualified for any medal or decoration awarded for gallantry unless the desertion is during hostilities.

(10) Forfeiture of badges, medals and decorations shall be indicated on the service certificate in the following manner.

(i) **Badges**:- The notation "Badge (or Badges) forfeited" shall be made after the last badge entry.

(ii) **Medals and decoratons:-** The relative entries shall be ruled through and notation "Forfeited" with the date of conviction shall be inserted below. Remission of forfeiture shall be indicated in the appropriate column as follows:-

"Forfeiture remitted"

(iii) The notations shall be authenticated by the commanding officer.

137. **Apprehension of deserters:-** (1) Every possible effort shall be made by lawful means to detect and apprehend deserters or absentees.

(2)The means and other descriptions of the deserters or absentees shall be distributed among such persons as may be directed by the chief of the Naval Staff, but one copy of the same shall invariably be sent by the

Commanding Officer to the police authorities of the deserters or absentee's usual place of residence, when it is known, and also of any other place or places where he may likely to have gone.

(3) When deserters are apprehended or they voluntarily surrender after more than two years absence from the service, they shall not be removed from their place confinement until the directions of the Chief of the Naval Staff have been obtained.

(4) Any person who voluntarily confesses to being a deserter or an absentee without leave from the Navy may, unless he surrenders himself into Naval custody, either

(a) be charged before a magistrate

or

(b) be arrested on a warrant under section 83 of the Act and delivered direct into Naval custody.

I in either case the question whether such a person be or be not a deserter or absentee, shall be duly investigated by the concerned Naval authority and for that purpose such person may be detained for a responsible time.

(5) If upon investigation his confession of desertion or absence without leave is found not to be true, such a person shall not be punished under the Act.

138. **Procedure on arrest :-** (1) The procedure to be followed in respect of arrest and subsequent disposal of a deserter shall be governed by the provisions of sub-section (1) of section 41, section 56 and section 475 of the code of criminal procedure, 1973 (2 of 1974) and sections 83, 84 and 85 of the Act.

(2) If it becomes necessary for any person to be sent to the hospital while in Naval custody, the Commanding officer shall inform the commanding officer of the hospital of the fact that the person is under arrest and that he may not be surrendered under any civil process except under the provisions of regulation 115.

139. **When charged before a Magistrate:-** Under sub-section (1) of section 41 of the code of Criminal procedure, 1973 (2 of 1974) a person may be arrested without a warrant on suspicion of being a deserter from the Indian Navy and when he is so arrested, the police officer arresting him shall produce him before a Magistrate .

140. **When arrested by Naval Warrant:-** If arrested on Naval warrant under section 83, the deserter or absentee may be received into Naval custody, and dealt with under the Act but no deserter or absentee who has not been arrested under such warrant shall be received from the police or from any other person, unless such deserter or absentee has first been charged before a Magistrate.

141. **Voluntary Surrender:-** A deserter or absentee who voluntarily surrenders himself to Naval authority may be dealt with under the Act, though no warrant for his arrest may have been issued and without charging him before a Magistrate.

142. **Summary investigation in writing:-** (1) When any deserter or absentee without leave, whether delivered into Naval custody by order of a Magistrate, or by a warrant issued under section 83 or by voluntary surrender, is brought before the Commanding Officer of any one of the Indian Naval Ship to be dealt with summarily, a thorough investigation shall be made with a view to establishing identity, and a note taken in writing of the proceedings; the offender shall at the same time be asked formally if he has any statement to make.

(2) Such statement, if made, shall or signed by the offender and fully witnessed; and the accuracy of any such statement shall be tested carefully before the investigation is closed.

(3) The written note of the investigation and the offender's statement shall be retained as enclosures to the punishment warrant.

143. **Notice of recovery:-** Whenever a deserter whose description has been reported to the police is recovered, the fact of his recovery shall at once be communicated to the police by the Commanding Officer of the ship in which the sailor is received for trial.

144. **Recovery of deserters from foreign ships:-** The Commanding Officer of Indian Naval Ships shall be cautious in receiving men from foreign vessels, who may represent themselves, or are reported to be deserters from the Indian Navy.

145. **Searching foreign ships:-** In no case shall an officer of the Indian Navy search any foreign ship for a Naval deserter, whether such ship be in foreign waters or elsewhere, and whether the officer be armed or not with the warrant mentioned in section 83.

146. **Reward for apprehensions:-** (1) Exceptional zeal or intelligence in effecting the arrest of a deserter or absentee, or in causing him to surrender, may be recognized by the payment of a reward the amount of which shall be determined having regard to the energy and intelligence shown, but such amount shall not exceed Rs.100/- for the arrest of a sailor who has overstayed his leave, or for the arrest of a deserter, or of a sailor who has:-

(a)broken out of his ship; or

(b)when on service away from his shi, quitted his place of duty and continued to be absent after the time at which he should have returned to the ship; or (c)when his ship was under sailing orders, continued to be absent without leave after the ship had sailed, provided that the fact of the ship being under sailing orders was generally known.

(2) A reward shall not be offered beforehand, except in rare cases where the recovery of the deserter or absentee is of special importance for other reasons.

(3) No reward shall be paid for the apprehension of an officer.

(4) If the constable, or other person, bringing a deserter or absentee on board, should object to the Commanding Officer's reward, the question shall be submitted to the Chief of the Naval Staff who shall forward it for a decision of the Government.

147 **Charges against deserter: -** (1) The amount of the reward and the cost of the deserter's or absentee's own railway fare or sea passage shall be the charges that may be deducted towards his desertion expenses from his pay by the ship to which he is brought, whether the escort be Naval, Military, Air force or police. Such reward and cost shall be shown separately in the appropriate column of the ledger, except when especially remitted by the Chief of the Naval Staff. The amounts chargeable in respect of railway warrants issued by the police in India, for the deserter's or absentee's own conveyance shall be communicated to the sailor's ship by the controller of Defense Accounts (Navy).

(2) The amount charges against the offender's pay (or if this cannot definitely be ascertained, the approximate sum) shall be noted for information (but not as punishment) on the punishment warrant, and in the daily record of offences.

(3) The cost of telegrams sent concerning deserters or absentees shall not be charges against them.

CHAPTER IVA – SUMMARY PUNISHMENT OF OFFICERS BELOW THE RANK OF COMMANDER

147A. **Award of summary punishment under section 94:-** The Central Government or the Chief of the Naval Staff or the Flag Officer Commanding-in-Chief of a Naval Command or the Commanding Officer of a ship or the Officer-in-charge of Naval academy may impose summary punishment or an office below the rank of Commander as provided for in section 94.

147B. **Award of minor punishment by Commanding Officer of Ship or Officer-in-charge of Naval Academy:-** (1) The Commanding Officer of a ship or officer-in-charge of the Naval Academy may impose on any subordinate officer whilst under training, the following punishments under sub-section (5) of section 94:-

(a)Severe reprimand;
(b)Reprimand;
(c)Stoppage of leave for a period not exceeding 14 days; (d)Extra work and or drill for period not exceeding 10 days.

(2) for imposing of punishment under sub-regulation (1), it shall not be necessary for the Commanding Officer of a ship or officer-in-charge of the Naval Academy to serve a show cause notice to the accused officer or hear the accused officer in person or by any friend or counsel.

147C. Imposition of punishment by the Commanding Officer:- (1) When Commanding Officer proposes to award a punishment of forfeiture of seniority in rank or time for promotion to a subordinate officer under sub-section (3) of section 94, the accused officer may be given an opportunity to show cause in the manner specified in sub-regulation (2).

(2) When after considering the report on a subordinate officer's misconduct, a Commanding Officer is of the opinion that the mis-conduct of the Officer deserves to be punished he shall so inform the officer together with all reports adverse to him and call upon him to submit in writing his explanation in defense.

Provided that the Commanding Officer may withhold from disclosure any such report if its disclosure is not in the public interest.

(3) On receipt of the Officer's explanation if any, the Commanding Officer shall consider it and if the same is found unsatisfactory, may impose the punishment of forfeiture of seniority in the rank or time for promotion as empowered under sub-section (3) of section 94, Where the punishment awarded involves forfeiture of seniority in the rank, the same shall require approval of the Chief of the Naval Staff, or the Flag Officer Commanding-in-chief of a Naval Command if the accused is serving in a Command.

147D. Action by the Flag Officer Commanding-in-chief of a Naval Command on misconduct report:- (1) If on a perusal of the record of Flag Officer Commanding-in-chief is of the opinion that there is a prima facie case and that the charges if proved would be within his powers to punish, he shall proceed to try the case as provided in regulation 14E and 147F. However, if he is of the opinion that the charge, if proved would be beyond his power to punish, he shall:-

(a)make a report in this behalf and submit the same together with all there relevant records to the Chief of the Naval Staff for being dealt with under section 94; or
(b)proceed to convene a court martial for the trial of the accused.

(2) before proceeding with the action as contemplated in sub-regulation (1) (a) above, the Flag Officer Commanding-in-Chief shall ask the accused as follows:-

"Do you consent to accept a summary award under section 94 or do you elect to be tried by court-martial".

(3) If the accused officer elects to be tried by the court-martial, necessary steps will be taken for that purpose.

(4) If the accused officer does not elect to be tried by court-martial and consent to be tried summarily under section 94, a notation to that effect shall be made in the proceeding of the case to be forwarded to the Chief of the Naval Staff for disposal.

147E. Imposition of punishment by Flag Officer Commanding-in-Chief of a Naval Command:- (1) When the Flag Officer Command-in-Chief of a Naval Command proposes to award punishment under sub-section 2A of section 94, the accused officer may be given an opportunity to show cause in the manner specified in sub-regulation (2).

(2) When after considering the report on the misconduct of an officer, the Flag Officer may be given Commanding-in-Chief of a Naval Command if of the opinion that the misconduct of the officer is deserves to be punished, he shall so inform the officer together with all reports adverse to him and call upon him to submit in writing his explanation in defense.

Provided that the Flag Officer Commanding-in-Chief mat withhold from disclosure any such report if its disclosure is not the public interest,

(3) On receipt of the officer's explanation, if any the Flag Officer Commanding-in-Chief shall consider it and, if the same is found unsatisfactory, may-

(a)impose the punishment of forfeiture of seniority in the rank or time for promotion, severe reprimand in case subordinate officer;

(b)impose the punishment of severe reprimand or reprimand in case officer other than subordinate officers; or

(c)remand the accused officer for trial by court martial.

(4) Where in case of an officer other than a subordinate officer, the Flag Officer Commanding-in-Chief of a Naval Command considers that the charges if proved would justify the accused officer being awarded punishment of forfeiture of seniority in the rank or time for promotion, before proceeding further with the said charge, the Flag Officer Commanding-in-Chief shall ask the accused officer as follow:-

"Do you consent to accept summary award by me or do you elect to be tried by court-martial?"

(a)If the accused officer elects to be tried by court martial. The necessary steps for that purpose shall be taken.

(b)If the accused officer does not elect trial by court martial and consents to the summary trial under section 94, representation to this effect shall be made in the proceedings and the officer proceeded with summarily

147F. Imposition of punishment of forfeiture of seniority or time for promotion on an officer other than subordinate Officer:- (1) When the Flag Officer Commanding-in-chief proceeds with trial of the accused officer, he shall red out the charge against the accused officer and ask him whether he plead

(2) If the accused officer pleads guilty, the plea of guilty shall be so recorded and if there no further charge to be read, the accused may be permitted to make a statement in mitigation of punishment. If the accused officer makes an oral statement, its gist or the statement, if in writing shall be attached to the proceedings.

(3) The Flag Officer Commanding-in-chief shall then consider the whole case and award such punishment as he consider just and proper.

(4) Where an accused officer pleads not guilty to the charges, the Flag Officer Commanding-in-chief shall proceed further with the trial.

(5) After the statements of witnesses received along with the report have been made part of the proceedings the Flag Officer Commanding-in-chief shall inform the accused officer that he is not obliged to make any statement, but if he wishes to make a statement orally or in writing, he may do so. The statement of the accused officer may deal with the facts of the case, with his character and with matters in mitigation of punishment. If the accused officer makes an oral statement its gist or the statement, if in writing, shall from part of the proceedings.

(6) In the course of a trial wherever it appears desirable, the Flag Officer Commanding-in-Chief, he may call and examine any witness whom be considers

essential for proper proposal of the case. The witness so call may be cross-examined by the accused officer and if necessary by the presenting officer.

(7) The evidence of such a witness shall be recorded in brief in narrative form on a separate sheet and attached to proceedings.

(8) If on consideration of the whole case, the finding of the Flag Officer Commanding-in-chief finds the accused officer guilty and acquits the officer

(10) If after considering the whole case, the Flag Officer Commanding-in-chief finds the accused officer guilty on any or all of the charges, he may award proper punishment empowered under section 94.

147G. Procedure in respect of trial of officer other than subordinate officers:- (1) The proceedings of the trial of an officer other than a subordinate officer by the Flag Officer Commanding-in-chief of a Naval Command, where the charges if proved would justify an award of forfeiture of seniority in rank or time for promotion, shall be recorded as far as possible, with such variations as are necessitated by the circumstances of each case in the prescribed form as far as at Appendix V. The report submitted to the Flag Officer Commanding-in-Chief repeating to the misconduct of an accused officer shall, inter alia contain the statement of witness duly signed and a list of charges of which the accused officer is assigned.

(2) The trial of an accused officer may take place at a venue, date and time convenient to the Flag Officer Commanding-in-Chief.

(3) The Commanding Officer or any other suitable officer nominated by him, shall present the case of the prosecution before the Flag Officer Commanding-in-chief and act as the presenting officer during the trial.

(4) An Officer appointed by the Flag Officer Commanding-in-chief shall make a report of the proceedings of the trial under his directions.

(5) The accused shall defend himself and shall not be entitled to be defended by any other officer or counsel.

(6) The Flag Officer Commanding-in-chief shall decide all questions arising in the course of the trial.

147H. Imposition of punishment by the Chief of the Naval Staff:- (1) on receipt of a report, when the Chief of the Naval Staff proposes to award a punishment of forfeiture of seniority in the rank or time for promotion under sub-section (2) of section 94 on account of misconduct of an officer, the officer may be given an opportunity to show cause, in the manner specified in sub-regulation (2) against that action.

(2) When after considering the report of officer's mis-conduct, the Chief of the Naval Staff is of the opinion that the officer deserves to punished, he shall so inform the officer together with all reports adverse to him and call upon him to submit in writing, his explanation and defense together with his opinion, if the same has not been exercised by him earlier, whether he consents to accept summary award under section 94 or elects to be tried by court martial:

Provided that the Chief of the Naval Staff may withhold from disclosure any such report if its disclosure is not in the public interest.

(3) On receipt of the Officer;s explanation, if any and if the officer has not elected to be tried by court martial, the Chief of the Naval shall consider it and if the same is found unsatisfactory:-

(a)May impose the punishment of forfeiture of seniority in the rank or time promotion as empowered under sub-section (2) of section 94; or

(b)If he considers that the punishment within his power shall not be adequate, submit a report of the case together with all the relevant records to the Central Government for being dealt with under sub-section (1) of section 94 or take steps to bring the accused officer to trial by court martial.

147I. Imposition of punishment by the Central Government:- (1) on receipt of a report of misconduct of an officer, when the Central Government proposes to award a punishment of forfeiture of seniority in the rank or time for promotion under sub-section (1) of section 94, he may be given an opportunity to show cause, if not already done so by the Flag Officer Commanding-in-chief or Chief of the Naval Staff, in the manner specified in sub-regulation (2).

(2) Where forfeiture of seniority is awarded, the forfeiture conduct, the Central Government is of the opinion that the officer deserves to be punished, it shall so inform the officer together with all records adverse to him and call upon him to submit in writing his explanation in defence together with his opinion, if the same has not been exercised by him earlier, whether he consents to accept summary award under section 94 or elects to be tried by court martial:

Provided that the officer's explanation, if any, and if the officer has not elected to be tried by court martial, the Central Government shall consider it and the same is found unsatisfactory, may impose the punishment of forfeiture of seniority in the rank or time for promotion as empowered under sub-section(1) of section 94.

147J. Effect of punishment of forfeiture of seniority in the rank of time for promotion:-

(1) The punishment of forfeiture of seniority and forfeiture of time which may be awarded to officers under section 94 shall be two distinct and separate

(2)Where forfeiture of seniority is awarded the forfeiture shall be noted in the Navy list by the post-dating of the seniority of the officer and where forfeiture of time is awarded it shall result only in the delay of promotion to the extent specified in the order of forfeiture.

(3)Forfeiture of seniority under section 94 shall be imposed only for very serious misconduct and the normal punishment under that section shall be forfeiture of time.

CHAPTER V – COURT MARTIAL

148 When application for court martial be made:- (1) The Commanding Officer shall make an application for the trial of an offender by court martial in the following cases, namely:-

(a) When an offence has been committed by a sailor, which it is beyond his power to try:

(b)When the Commanding Officer considers that an offence has been committed by a sailor which is beyond his powers to punish adequately;

(c) When any offence has been committed which he considers ought to be tried by court martial;

(d) If the accused has exercised his option in accordance with these regulations to be tried by court martial;

(e) When so directed by his superior authority.

(2) If a Commanding Officer himself is to be tried, an application for trial shall be made by his superior authority

(3) In the case of an officer serving in Naval Headquarters, the application for trial shall be made by an officer designated in this behalf by the chief of the Naval Staff.

(4) In the case of an officer on the staff of an Administrative Authority, the application for trial shall be made by such officer as may be designated by the Administrative Authority.

(5) In the case of an officer serving a Naval establishment not commissioned as a ship, the application for trial shall be made by the head of that establishment, unless such establishment is under the command of a Commanding Officer of one of Indian Naval Ships.

(6) Where an officer other than a Commanding Officer is required to make an application for trial by court martial, references here in after to the Commanding Officer shall include references to such other officer.

149. Procedure for investigation and taking down summary of evidence:- (1) Before a Commanding Officer proceeds to make an application for trial by court martial he shall either investigate the case himself or appoint a suitable person to investigate the case and to record a summary of evidence.

(2) The investigating officer shall take down in writing the evidence of any person whose appears to be relevant and the evidence of each witness after it has been recorded shall be read over to him and shall be signed by him or if he cannot write, his name shall be attested by his mark and witnessed by the investigating officer as a token of the correctness of the evidence recorded.

(3) The evidence of the witness shall be recorded in the English language and if the witness does not understand the English language, the statement as recorded shall be interpreted to him in the language, which he understands and a notation shall be made to the effect.

(4) If owing to the exigencies of service or any other grounds including the expense and the loss of time involved the attendance of any witness cannot in the opinion of the investigating officer be readily procured, some other officer may be directed by the Commanding Officer to take the evidence of the witness, or a written statement of the witness relating to the charge shall be obtained and such statement shall be included in the summary of evidence.

150. Summoning of witness before investigating officer:- Any witness whose attendance cannot otherwise be attained may be summoned in accordance with the provisions of regulation 233.

151. Statement of accused:- (1) When the investigating officer has completed recording the evidence he shall, if he himself is not the Commanding Officer, forward it to the Commanding Officer.

(2) The Commanding Officer shall formulate the charges and he shall charge the accused with having committed the offences listed in the charge sheet and the Commanding Officer shall there upon caution the accused as follows:-

"Do you wish to make any statement? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given as evidence."

(3) Any statement made by the accused shall be taken down, read over to him and signed by him but he shall not be cross-examined upon it.

152. Remand of accused:- (1) The evidence recorded by the investigating officer and the statement of the accused, if any, hereinafter referred to as the "summary of evidence" shall be considered by the Commanding Officer who thereupon shall either-

(a)remand the accused for trial by court martial, or

(b)refer the case to his superior authority for directions, or

(c)in the case of a sailor if it is within his jurisdiction to try the offences charged, then, unless he has received directions to the contrary from his superior authority, dispose of the case summarily.

(2) When the case is referred to a proper superior authority for directions, such superior authority shall given such directions, as it considers appropriate provided that where investigation has been carried out for the purpose of giving effect to any directions of any higher authority, the case shall be submitted to him.

(3) Where in accordance with the directions of a superior authority given under sub-regulation (2), the Commanding Officer has been directed as apply for trial by court martial the Commanding Officer shall remand the accused for trial by court martial.

(4) When the accused has been remanded for trial by court martial, the Commanding Officer shall proceed to make an application to the proper convening authority in the manner here in after provided.

153. **Application for trial – Circumstantial letter:-** (1) An application for the trial by court martial of any person shall be made as follows:-

There shall be forwarded to the convening authority through the usual channels a letter, here in after called the circumstantial letter, reporting the circumstances on which the charge or charges are founded in the order of their occurrence, and in sufficient detail to show the real nature and extent of the offence; when words constitute the substance of the offence, they are to be fully and exactly set out. The letter shall not refer in any way to the previous character, conduct or conviction of the accused, or contain any reference to facts prejudicial to him other than such as bear directly on the charges.

(2) When a charge is drawn under section 55 the circumstantial letter shall contain specific details of every respect in which it is alleged that the accused was at fault.

(3) Any statement made by the accused in the course of enquiries or during an investigation or after he had been charged shall not be included in the circumstantial letter unless it constitutes an essential part of the alleged offence, such as in a charge of perjury and such statement shall be forwarded as an annexure to the circumstantial letter in a separate document and reference shall be made in the circumstantial letter itself to the fact that such statement was made and to its inclusion in the annexure.

(4) If the Commanding Officer should desire to enter into further explanations as to his reasons for asking for a court martial which would necessarily refer to the

previous conduct or antecedent of the accused he shall do so orally or by separate letter to the convening authority.

154. **Documents to accompany circumstantial letter:-** There shall also be forwarded at the same time as the circumstantial letter a further letter enclosing:-

(a)the charge sheet drawn in accordance with these regulations;

(b)a list of witnesses for the prosecution;

(c)a summary of evidence in support of the charges;

(d)a list of the exhibits which the prosecutor proposes to put in evidence.

And when the offender is below the rank of an officer,

(e)a certified extract of all entries of offences and punishments in the Record of Offences Sheet prior to the date of the offence charged but subsequently to his joining his present ship, with his character assessed from the previous 31st December to the date of the offence with which he may be charged but excluding all consideration of that offence;

(f)a certified copy of the accused's certificate of service.

155. **The charge sheet:-** The charge shall contain the list of charges**,** on which it is proposed to try the accused.

(2) Subject to the provisions of the Act, a charge sheet may contain one or more charges.

(3) Every charge sheet shall begin with the name and description of the person charged and state his rank, the number and the ship to which he belongs.

(4) Each charge shall deal with a distinct offence and in no case shall an offence be described in the alternative in the same charge.

(5) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

(6) If the law which creates an offence does not give it any specific name, so much of the definition of the offence must be stated so as to give the accused notice of the matter with which he is charged.

(7) The law and the section of the law against which an offence is said to have been committed shall be mentioned in the charge.

(8) the fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged with is fulfilled in the particular case.

(9) The charge shall contain such particulars as to time and place of the alleged offence and of the person, if any against whom or the thing, if any, in respect of which it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(10) When the nature of the case is such that the particulars mentioned in the foregoing sub-regulation do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose, unless such particulars are stated in the circumstantial letter.

(11) When the accused is charged with criminal breach of trust or dishonest misappropriation of money or stores, it shall be sufficient to specify the gross sum or the aggregate of all items of stores in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge for one offence, provided that the time included between the first and last of such dates shall not exceed one year.

(12) Where an accused person is believed to have committed an offence of being absent without leave in addition to some other offences, a charge of absence without leave shall also be included in the charge sheet in order that the court may have the power to sentence the accused to mulcts of pay and allowances.

(13) Where it is intended to prove any facts in respect of which any mulcts of pay and allowances may be awarded to make good any proved loss or damage occasioned by the offence charged, the charge shall contain particulars of these facts and the sum of the loss or damage it is intended to charge.

(14) In every charge, words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

(15) A charge sheet shall be in the prescribed form or in a form as near there to as circumstances admit.

DUTIES OF CONVEINING AUTHORITY

156. **Examination of charges and evidence:-** (1) When the convening authority has received the circumstantial letter and other documents here in before referred to, he shall, before he orders a court martial to assemble, satisfy himself that the charges are correct and sufficient and that they are properly framed and carefully drawn up.

(2) The convening authority shall not convene a court martial unless he has satisfied himself that the evidence if uncontradicted or unexplained will probably suffice to ensure a conviction.

157. **Amendment of charges** (1) The convening authority may amend the charges submitted to him and thereupon a fresh charge sheet shall be drawn up and signed by the convening authority and the charge sheet so amended shall stand substituted for the original charge sheet.

(2) Where the charge sheet has not been amended, it shall be counter signed by the convening authority.

158. **Amendment to circumstantial letter:-** The convening authority may make such amendments in the circumstantial letters as may appear to be necessary on the basis of the charges framed and the summary of evidence. In such a case, a notation 'As amended by the convening authority' shall be made on top of the first page of the circumstantial letter as well as all amendments shall be authenticated by the convening authority with his signature. The circumstantial letter as finally approved shall be signed by the convening authority to indicate his approval.

159. **Convening of court martial:-** (1) When the convening authority is satisfied that all the documents are in order and that a court martial ought to be convened, he shall issue a warrant in the prescribed form together with a copy of the charge sheet to the officer nominated by him as president of the court martial directing him to assemble a court martial at the place and on the date mentioned in the warrant.

(2) The circumstantial letter shall not be communicated to the president or to the other members of the court until the court assembles and is duly sworn.

(3) The summary of evidence shall on no account be given to the president or the other members of the court at any stage of the proceedings.

159A. **Convening of court-martial at Delhi/New Delhi :-** An officer empowered by a admission from the Chief of the Naval Staff to order court-martial in Delhi or New Delhi shall be entitled to convene such court-martial even in the presence of an officer superior in rank to him and in command of one or more of the ships of the Indian Navy.

160. **Selection of president:-** Should the rank of the person to be tried, or the character of the offence charged, be such as to require that the court should be composed of officers of standing and experience, the convening authority shall take care to select as president an officer of such seniority as may ensure the attendance of the officers of the highest rank who may be present at the place where the court martial may be ordered to assemble; but should the nature of the offence be such as may be properly dealt with by officers of less experience, he may select any eligible officer to preside whom he may consider most desirable, with reference to the convenience of the service.

161. **Appointment of the trial judge advocate:-** (1) Where a judge advocate in the department of the Judge Advocate General of the Navy is on the staff of convening authority, that judge advocate shall ordinarily be the trial judge advocate for all courts martial convened by the convening authority.

(2) When there are two or more judge advocates on the Staff, the convening authority shall select one of them in consultation with the senior judge advocate.

(3) Where a convening authority does not have a judge advocate in the department of the Judge Advocate General of the Navy on his staff, he shall ordinarily make a request

to the services of a judge advocate being made available and where a judge advocate has been so nominated in this behalf, he shall be the trial judge advocate at the court martial to be convened.

(4) If the services of a judge advocate in the department of the Judge Advocate General of the Navy are not available, the convening authority may appoint any fit person as the trial judge advocate;

Provided that in the case of a court martial for the trial of a Capital offence, reference shall be made to the Judge Advocate General of the Navy to nominate a trial judge advocate;

Provided further that, if such trial is held out side the Indian waters, the convening authority shall obtain the directions of the Chief of the Naval Staff.

(5) Where the trial judge advocate is a judge advocate in the department of the Judge Advocate General of the Navy, it hall not be necessary to issue to him any special warrant to act.

(6) A trial judge advocate who is not a judge advocate in the department of the Judge Advocate General of the Navy, shall be appointed by warrant in the prescribed form.

162. **Notice of trial to trial judge advocate:-** The convening authority shall transmit to the trial judge advocate a copy of the warrant issued to the president of the court martial together with the original and sufficient copies of the circumstantial letter and documents mentioned in regulation 154 to enable the trial judge advocate to give them to each accused.

163. **Appointment of prosecutor:-** (1) The convening authority shall by warrant under his hand in the prescribed form, appoint a suitable person to prosecute and notify such appointment to the trial judge advocate.

(2) Where an officer is appointed as prosecutor, it shall be his duty to obtain from the convening authority such papers as may be necessary for the purpose of the prosecution.

(3) Where a counsel is appointed to conduct the prosecution there shall also be appointed, at the same time, an officer to assist him, in which case, it shall be the duty of that officer to obtain from the convening authority such papers as may be necessary.

(4) A counsel shall not be engaged for conducting the prosecution at court-martial without the prior approval of the Chief of the Naval Staff.

(5) The recommendation for engagement of counsel shall not be made unless the convening authority is satisfied that it is essential in the interests of adequate prosecution and when approval of the Chief of Naval Staff is given, the counsel shall be engaged in consultation with the Judge Advocate General of the Navy and fees shall be fixed in consultation with him, subject to any restrictions regarding the maximum amount payable to counsel as may be laid down by the Government from time to time.

164. **Appointment of Provost Marshal:-** The convening authority, or such officer as he may direct, shall by warrant under his hand in the prescribed form appoint a provost Marshal to take the accused into his custody and safely keep him until he shall be delivered in due course of law.

165. **Appointment of officer of the court:-** The convening authority shall also by warrant under his hand in the prescribed form, appoint an officer of the court to perform the duties mentioned in regulation 166 and such other duties as he may be directed by the president of the court martial or the trial judge advocate to perform for the due transaction of the administrative business of the court.

166. **Duties of the Officer of the court:-** The officer of the court appointed under regulation 165 shall perform the following duties. namely;

(a) He shall serve the accused with a notice of trial issued by the trial judge advocate and other papers and shall obtain his signature.

(b) He shall serve the prosecutor with the papers ordered to be delivered by the trial judge advocate.

(c) When so directed, he shall serve the summons issued by the trial judge advocate upon any witness.

(d) He shall be responsible for making due arrangements for the sitting of the court under the directions of the trial Judge Advocate and shall obtain from the proper source the furniture and fittings and supply stationery required for use of the court.

(e) He shall muster the witnesses out side the courtroom and as soon as the court is assembled, he shall report to the president that they are in attendance.

(f) When so directed by the president, he shall cause the accused to be brought in and to admit the prosecutor and audience.

(g) He shall ensure that no witness enters the court unless called to give evidence, except by the permission of the court.

(h) He shall ensure that each witness leaves the court as soon as he has been examined and is not allowed to communicate with those witnesses who have yet to give evidence.

(i) He shall ensure that no witness duly summoned leaves the vicinity of the court.

(j) When the court is cleared for deliberations, he shall ensure that no one is allowed to remain within the court's vicinity.

167. **General notice of court martial:-** (1) Whenever a court martial is ordered such timely notice as may be practicable and which, as a general rule, shall not be less than ninety-six hours, or on active service, not les than twenty-four hours, shall be given by general orders or by signal to the ships present so that the proper officers may be prepared to attend at the place and hour appointed.

(2) The names of the president and of the officers whose presence it is anticipated will be required shall be made known and after it is made known, no officer junior to the president of a rank eligible to sit as a member shall proceed on leave of absence without the express authority of the convening authority or in his absence from the place where the court martial is to be held, of the senior Naval Officer present.

168. **Transmission to president of list of officers eligible to sit on court martial:-** (1) As soon as practicable but not later than the morning of the day appointed for the court martial, the convening authority, or in his absence from the place where the court martial is to be held, the senior Naval Officer present shall send to the president a list of the officers who are eligible and may be required to sit as members notifying if there be any whose attendance is not attainable on ground of sickness or as being exempted on ground of urgent public duty.

(2) Such list shall also give the names of the officers absent on leave.

DUTIES OF TRIAL JUDGE ADVOCATE

169. **Notice of trial to the accused:-** (1) The trial judge advocate shall:-

(a) give timely notice to the accused of the time and date of the trial;

(b) cause the accused to be furnished with copies of the charge sheet, the circumstantial letter, the summary of evidence and the list of exhibits proposed to be exhibited at the trial by the prosecution;

(c) inform thee accused that any witness whom he may desire to call and whose attendance can reasonably be procured shall be summoned on his behalf;

(d) inform the accused that he may, if he so desires and if he makes an application in writing, give evidence on his own behalf.

(2) The notice to the accused shall b in the prescribed form.

170. **Notice to prosecutior:-** The trial judge advocate shall inform the prosecutor of the time and date of the court martial issuing him with a notice in the prescribed form and request the prosecutor to forward to him certified copies of the documents mentioned in section 119.

171. **Attendance of witnesses:-** The trial judge advocate shall take necessary steps to procure the attendance of witnesses whom the prosecutor or the accused may desire to call and whose attendance can reasonably be procured, serving them with summons in the prescribed from.

PREPARATION OF DEFENCE BY THE ACCUSED

172. **Rights of accused to prepare defence:-** (1) An accused for whose trial an application has been made shall be afforded as full an opportunity as is consistent with the exigencies of the service for preparing his defense.

(2) Any correspondence between the accused and his legal advisers shall not be liable to be censored, and the accused shall inform the Commanding Officer of the names of such persons and shall also inform him of any distinctive marks that such correspondence will bear.

(3) The accused shall have the right to interview any witness whom he may wish to call in his defence.

(4) If the accused so desires, the Commanding Officer of the accused shall take such steps as the circumstances of the case permit to obtain a written statement in a closed envelope from a witness whom the accused may wish to call in his defence and such statement shall be given to the accused unopened.

(5) If the accused gives to his Commanding Officer the name of any person whom he wishes to call in his defence, no person shall interview such witness with reference to the charges against the accused except in the presence of the accused, unless the accused agrees to dispense with his presence in writing and if the accused wishes to interview a witness whom the prosecutor intends to call, the interview shall be in the presence of an officer detailed by the Commanding Officer of the accused person.

173. **Defence Officer and defence counsel:** (1) Except where the accused defends himself, he may be defended by an officer who shall be called the defending officer or counsel who is properly qualified who shall be called the defence counsel.

(2) A counsel shall be deemed to be properly qualified, if he is an advocate within the meaning of the Advocate Act, 1961 (25 of 1961).

(3) The accused may request and shall be afforded at the earliest opportunity the assistance of any officer in his ship whose assistance is reasonably available and in case the accused is unable to obtain such assistance and he desires to have a defending officer assigned to represent him, the convening authority shall appoint a suitable officer.

DUTIES OF THE PRESIDENT

174. **Summoning of members:-** (1) The president shall by signal summon the officers junior to himself present at the place where the court martial shall be held to sit there on which signal shall be deemed to be a compliance with sub-section (19) of section 97.

(2) When issuing the signal, provision shall be made for the attendance of spare members who would be eligible to sit if any objection to a member of the court is allowed.

175. **Responsibilities for conduct of court:-** The president shall be responsible together with the trial judge advocate for ensuring that the trial is conducted in accordance with the provisions of the Act and these regulations and that the customary ceremonial set forth in Appendix III **is observed.**

176. **Order in which members shall sit:- (1)** Officers whose duty it may be attend as members of court-martial shall sit only in the confirmed rank they hold; but Commodores when not acting in conjunction with senior Captains shall sit as commodores otherwise as Captains only.

(2) The members of the court shall sit in order of seniority, the officer next senior to the president sitting on his right, the next senior on his left and so on.

177. **When accused pleads guilty:-** Before the court accepts a plea of guilty and there are no other charges to be tried, the court shall call upon the prosecutor to read the circumstantial letter.

PROVISIONS CONCERNING PROCEDURE

178. **Provisions as to witnesses for the prosecution and the defence:-** (1) The prosecutor shall not be bound to call all the witnesses whose names are in the list given to the accused, but he shall call such of them as the accused may desire to

be called in order that the accused may cross-examine them if he wishes to do so and such witnesses, he shall be called before the prosecution is finally closed.

(2) The accused shall not be required to give to the prosecutor or the court a list of witnesses whom he intends to call, but should he desire assistance in the matter of securing the attendance of witnesses, he shall inform the trial judge advocate in the prescribed form.

(3) The prosecutor is a competent witness.

(4) A member of the court, whether previously objected to or not by either side, shall not be disqualified from being examined as a witness should it be found in the course of the proceedings that he may give material evidence, but there after he shall be disqualified from acting as a member of the court, unless his evidence has been given after conviction, and has been directed to the good character of the accused.

(5) When the accused is called on for his defence, he shall, on his application, be granted a reasonable time for the preparation of the same whereupon the court shall adjourn and may adjourn again from time to time on the application of the accused, if he shall satisfy the court that the time granted to him has not been sufficient for the due preparation of his defence.

179. **Mode of questioning witness:-** (1) Every question shall be put to a witness orally and the witness shall forthwith reply, unless an objection is made, in which case he shall not reply to the court until the objection is decided by the trial judge advocate.

(2) The evidence of a witness as taken down shall be read to him if he so requests before he leaves the court, and shall, if necessary, be corrected and if he makes any explanation or correction, the prosecutor and the defence may respectively examine him regarding the same.

(3) If the witness denies the correctness of any part of the evidence when the same is read over to him, the trial judge advocate may, instead of correcting the evidence, record the objection made by the witness.

(4) If the evidence is not given in English and the witness does not understand that language, the evidence as recorded shall be interpreted to him in the language in which it was given, or in a language which he understands if he so requests before he leaves the court.

(5) On application of the accused the court shall allow his cross-examination of a witness to be postponed, unless it appears that the request has been made for the purpose of obstruction.

180. Questions to witness by court or judge advocate:- The president, the trial judge advocate, or with the permission of the president, any member of the court may address a question to a witness while such witness is giving his original evidence and before he withdraws.

181. Recalling of witness and calling of witness in reply: (1) Without prejudice to the provisions of section 137, the trial judge advocate, if he considers it expedient in the interest of justice, so to do, allow a witness to be called or recalled by the prosecutor, before the closing address of or on behalf of the accused, for the purpose of rebutting any material statement made by a witness for the defence or for the purpose of giving evidence on any new matter which the prosecutor could not reasonably have foreseen.

(2) Where the accused has called witnesses to character, the prosecutor before the closing address of or on behalf of the accused, may call or recall witnesses for the purpose of proving a previous conviction or entries in the defaulter's book against the accused.

182. Amendment of charges during the trial:- (1) If at any time in the course of the trial after the court has been sworn and before the finding, the trial judge advocate is satisfied that there is a varience in unessential details between the charge or charges and the evidence adduced in support thereof, the trial judge advocate may amend the charge or charges accordingly provided that-

(a)no evidence which could not have been given in support of the original charge shall be given in support of the substituted charge;

(b)the accused shall not be substantially prejudiced by the making of such amendment in the conduct of his defence; and

(c)the court shall, if so requested by the accused adjourn for a reasonable time to enable him to meet the charge or charges as so amended.

(2) All such amendments shall be noted in the minutes at the point at which such amendments shall be made, and shall be verified on the original documents by the signature of the trial judge advocate.

EVIDENCE ON NAVIGATIONAL MATTER

183. Documents to be made available in Navigational cases.:- (1) At all trials at which evidence is to be given on the navigation of one of Indian Naval Ships or vessels the prosecutor on opening his case shall lay before the court such of the following documents as exist and apply to the case, namely:-

(a)the ship's log;

(b)the rough and fair engine room registers;

(c)control room log;

(d)the chart or charts and sailing directions by which the ship was navigated;

(e)the last table of compass deviations;

(f)the navigational data book and the gyro-compass log;

(g)the Captain's night order book, and

(h)the Navigating officer's note book and work book.

(2) After the prosecutor has opened his case, the president shall, unless he considers the circumstances so exceptional that such procedure would be a waste of time, order the documents referred to in sub-regulation (1) to be handed to one or more Navigation Direction or other competent officers who shall work up the ship’s reckoning throughout the material time; the result, together with such other details as may be required, being delivered to the court in the prescribed

form completed in all relevant respects and attested by the signature of the officer or officers so directed, and such officer or officers shall be sworn and be subject to cross-examination by both persecution and defence as to its accuracy.

(3) The president shall endorse such report as approved, if the court concurs, and if not, an expression of its dissent shall be added, signed by the president, showing in what respects and for what reason it dissents.

(4) With the said report such officer or officers shall also deliver to the court a copy or tracing of the chart by which the ship was navigated on which the position of the ship so determined have been laid off, and also the determined position when ashore or in danger, as noted in the log book.

(5) The rule and direction of the current and of the tidal stream and the state of the tide should also, if possible, be ascertained, stated, and verified on oath.

(6) The report in the prescribed form and the prepared chart, as well as an attested copy of the ship's log book and the engine room register or of the control room log, commencing from at least 48 hours before the ship took the ground or was endangered, if so long from a known anchorage, shall accompany the minutes. (7) At trials at which evidence may be required on the navigation of an aircraft such documents as exist and may be available to serve a similar purpose to those set out in sub-regulation (1) shall be made available by the Commanding Officer of the aircraft and the court may follow, with such variation as may be necessary or desirable, the procedure prescribed in this regulation.

184. **Absence of documents:-** (1) Should the absence of any of the documents mentioned in regulation 183 be likely to render it difficult for the officers mentioned therein to complete their task to the satisfaction of the court, it shall be permissible for the prosecution to call an expert witness (if possible a qualified Navigation Direction Officer) to assist the court.

(2) Such a witness shall not be called under regulation 183 and shall, with the permission of the court, be present to hear the evidence and shall then lay out the resulting courses on the chart.

(3) Such witness shall be subject to unrestricted cross-examination.

185. **Navigation Direction Officers – examination and cross-examination:-** (1) The examination and cross-examination of the officer or officers who leave been directed to perform the duty mentioned in regulation 183 shall be limited to ascertaining the accuracy or inaccuracy of the documents laid before the court.

(2) Notwithstanding anything contained in sub-regulation (1), if no other navigational experts are reasonably available and it is desired to have further evidence from such officer or officers, the court may recall such officer or officers and permit him or them to be questioned on other navigational matters by both the prosecution and the defence.

185A. **Reason for finding in navigational cases:-** The reasons for finding of 'guilty' or 'not guilty' including cases where the court accepts the 'plea of no case to answer' on charges under section 55 and 55A shall be recorded.

186. **Evidence of negligence not alleged in circumstantial letter:-** (1) If the court, at any time during the trial, considers that the accused has been negligent in any way not specifically detailed in the circumstantial letter or the charges, the court shall formulate a fresh allegation against the accused, inform the accused about the allegation and invite him to deal with the fresh allegation in his defence, adjourning if necessary to give him time to meet it.

(2) Any witness for whom the accused asks shall, if practicable, be called or recalled and if he is a prosecution witness, he shall be cross examined by the defence and re-

examined by the prosecutor and if he is a defence witness, he shall be examined by the defence, cross-examined by the prosecutor and re-examined by the defending officer.

(3) If the charge is found proved, any such additional heading indicating a form of negligence, if finally established to the satisfaction of the court, shall be included in the finding.

GENERAL

187. **Period of sitting:-** Ordinarily the court martial shall sit five hours a day and its sittings shall not be protracted without specific reasons.

188. **Ascertaining the opinion of the court:-** In ascertaining the opinion of the court in accordance with section 124, the votes of members of the court shall be taken in succession beginning with the member lowest in rank.

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190. **The minutes of proceedings :-** (1) The proceedings of the court martial shall be recorded as far as possible in the prescribed form.

(2) The questions and answers shall be recorded verbatim and serially numbered throughout and all exhibits shall be fastened together in the order in which they were produced in the court, and a list shall be made thereof showing the precise question and answer at which the document was exhibited.

(3) The records referred to in sub-regulation (2) shall be accompanied by an index of questions put to each witness and the pages of the minutes shall be serially numbered

(4) Whenever a question proposed to be asked by either party is objected to by the other party, the trial judge advocate shall decide whether the question is to be admitted or not and the fact of the objection having been made, the ground thereof and the decision of the trial judge advocate shall be recorded in the minutes, if the trial judge advocate or either of the parties so desires.

191. **Responsibilities of trial judge advocate for preparing minutes:-** (1) The trial judge advocate shall be responsible for ensuring that the minutes are duly recorded and prepared.

(2) The transcript made by the shorthand writer shall be made under the directions of the trial Judge advocate and both the shorthand writer and the trial judge advocate shall certify that the transcript is a faithful record of the proceedings.

192. **Number of copies:-** (1) In addition to the original proceedings, there shall be made sufficient copies to enable one to be sent to the convening authority and one supplied to each of the accused in the event of an application being made thereof pursuant to section 129.

(2) The trial judge advocate shall transmit the original proceedings directly to the Judge Advocate General of the Navy and shall submit a copy thereof to the convening authority.

(3) Where an officer produces certificate or other documents of character under the provisions of section 119 (1) (a) (iii), a certificate shall be extracted on the prescribed form and it shall not be necessary to exhibit the original certificates unless it is otherwise decided by the trial judge advocate.

193. **Report by President of court martial to convening authority:-** (1) As soon as the court has been dissolved, the president shall inform the convening authority or the senior Naval Officer present the finding and the sentence of the court-martial.

(2) If the court desires to draw attention to the conduct or manner of giving evidence of any witness, an entry regarding such conduct or manner may be made in its proceedings, after the sentence and, except in cases where such witness is also sentenced under section 139 or section 140, such entry shall not form part of its proceedings.

(3) All other representations which the court may desire to make with reference to matters arising out of the court-martial shall be made the subject of a separate letter signed by the president before the court has been dissolved, and shall not form part of the recorded proceedings of the court.

193A. Powers of the Court-Martial to Award Minor Punishments:- Without prejudice to the minor punishments as may be inflicted according to the custom of the Navy, a court-martial may award the following punishments in accordance with the provisions of these regulations:

(a)Solitary confinement in a cell or under a canvas screen for a period not exceeding fourteen days (N0.8)

(b)Deprivation of good conduct Badge and Good Conduct Medal(No.9),

(c) Extra work and drill for a period not exceeding fourteen days (N0.11);

(d)Stoppage of leave for a period not exceeding 60 days (No.12); (e)Extra work or drill for not more than two hours in a day for a period not exceeding seven days (N0.13).

194. **Execution of Sentence:-** (1) It shall be the responsibility of the convening authority to take necessary steps to give effect to the sentence.

(2) The convening authority shall not give effect to a sentence if he considers that an error has occurred in the conduct of the court-martial calculated, in his opinion, to invalidate the finding of the court-martial and if he doubts the correctness of the finding in fact or in law or the legality or the propriety of the sentence, he shall not put the sentence into effect until a decision has been obtained from the Chief of the Naval Staff.

(3) Where an officer is sentenced to imprisonment, the convening authority shall not put the sentence into effect until he has communicated with and received the directions of the Chief of the Naval Staff.

195. **Custody until commitment:-** A person sentenced to imprisonment or detention may be detained in Naval custody until he has been committed to prison or detention quarters or until other orders have been received from the proper superior authority.

CHAPTER VI
DISCIPLINARY COURTS

196. Subject to the provisions of section 96, the procedure and practice of court-martial provided by the Act or by these regulations shall apply to the procedure and practice of disciplinary courts subject to the following modifications, namely:-

(a) such of the provisions as are inconsistent with sub-section (1) to (4) of section 96 shall not apply:

(b)section 122 shall apply as if for the word “four” the word “two” were substituted in the first proviso to sub-section (2);

(c)section 123 shall apply as if for clause (a) thereof, the following clause was substituted

“(a) Where the number of members comprising the court is after

the commencement of a trial reduced below two";

(d) The provisions relating to the award of punishments not within the jurisdiction of a disciplinary court shall not apply.

CHAPTER VII
BOARDS OF INQUIRY

197. Convening of Boards of Inquiry:- (1) A board of enquiry may be convened by the Chief of the Naval Staff or any Administrative Authority, or when two or more ships are in company, by the senior Naval officer present, whenever any matter arises upon which he requires to be thoroughly informed.

(2) An Administrative Authority or the senior Naval officer present shall convene a board of inquiry when so directed by superior authority or when so required by any regulations, Government instructions or Navy orders.

198. Constitution of Board of Inquiry:- (1) The board may consist of any number of officers including officers of the Army or the Air Force or Civilian Gazetted officers and Master Chief Petty officers, provided the number of such Master Chief Petty Officers shall not exceed one half of the members constituting the Board.

(2) Army and Air Force Officers and Civilian gazetted Officers, unless they are under the administrative control of the convening authority, shall be appointed only after the concurrence of the appropriate authority superior to the individuals to be appointed.

(3) As far as practicable, the president and the members shall be senior or relatively senior to the person whose conduct is under inquiry and persons whose evidence may be required by the Board shall not be nominated as members.

(4) In selecting members, the convening authority shall have regard to the possibility that a person who has sat on a Board of inquiry may, if otherwise qualified to sit on a court-martial upon the same subject matter, be objected to and that such objection may be alloed by the court.

199. President of the Board:- The convening authority may appoint any suitable person to be president of the Board.

200. Duties of the Board:- (1) The Board shall perform such duties as may be directed by the authority convening the Board.

(2) Such directions shall always be made in writing and may in cases of urgency be conveyed by signal and when a Board is convened by an Administrative Authority or senior Naval Officer present, shall conform to any general directions given in any Navy orders.

(3) Every order convening the Board shall be made in the prescribed form or as near thereto as circumstances permit and where directions are given by signal, it shall be sufficient to make reference to the said form, in respect of the general directions contained therein further directions being added as necessary.

(4) A Board may be required to collect evidence only, without being required to give any opinion or the Board may be required to report fully with regard to any matter, which may be referred to it and to make recommendations.

(5) The convening authority shall, when the Board is held on a returned prisoner of war or on a prisoner of war who is still absent, direct the Board to record its opinion whether the person concerned was taken prisoner through his own willful neglect of duty, or whether he served with or under, or aided the enemy, he shall also direct the Board to record its opinion in the case of a returned prisoner of war, whether he returned as soon as possible to the service and in the case of a prisoner of war still absent whether he failed to return to the service when it was possible for him to do so.

201. Members of the Board not to be sworn or affirmed:- Members of the Board shall not be sworn or affirmed, but when the Board is on recovered prisoners of war, the members shall make the following declaration:-

"I,……..do declare upon my honour that I will duly and impartially inquire into and give my opinion as to the circumstances in which……became prisoner of war, according to the true spirit and meaning of the regulations for the Navy."

202. Procedures:- (1) The Board shall be guided by the provisions of these regulations and also by the Navy orders in force for the time being and the written instructions of the convening authority provided that the Navy Orders and the written instructions are not consistent with anything contained in these regulations.

(2) The Board may put such questions to a witness as it thinks desirable for testing the truth or accuracy of any evidence he has given and otherwise for eliciting the truth.

203. Examination of witness:- (1) Before examination, every witness shall be informed in the following terms which shall be recorded in the minutes:-

"You are privileged to refuse to answer any question, the answer to which may tend to expose you any penalty or forfeiture. It will be for you to raise the objection and for the board to decide whether you must answer the question or not."

(2) No one charged with any offence shall be bound to make any statement or answer any questions.

(3) The Board may be re-assembled as often and with such charges in its composition as the convening authority may direct for the purpose of examining

additional witness or further examining any witness, or recording further information.

(4) A Board shall unless otherwise ordered, sit with closed doors.

(5) Except where a board is ordered to inquire into the propriety of a punishment of regulation to a lower rank awarded to a Chief Petty Officer or Petty Officer, in a case where such Chief Petty Officer or Petty Officer had elected trial by court-martial and due to the exigencies of the service, the Commanding Officer had exercised his powers under the regulations nevertheless to try the Chief Petty Officer or Petty Officer as the case may be summarily, no person shall be present in the character of a prosecutor nor any friend or professional adviser be allowed to assist any person concerned in the inquiry.

(6) If the inquiry should have reference to the loss or hazarding a ship, the course directed by regulation 183 shall be adopted mutates mutatis.

204. Summoning of witness:- Any witness whose attendance cannot otherwise be attained may be summoned in accordance with the provisions of regulation 233.

205. Procedure when character or conduct of a person in Government service involved:- (1) Save in the case of a prisoner of war who is still absent, whenever any inquiry affects the character or reputation of a person in Government service or may result in the imputation of liability or responsibility for any loss or damage or is made for the contravention of any regulations or general or local orders, full opportunity shall be accorded to such person of being present throughout the inquiry and of making any statement and of giving any evidence he may wish to make or give and of cross-examining any witness whose evidence in his opinion affects him and producing any witness in his defence.

(2) The president of the Board shall take such steps as may be necessary to ensure that any such person so affected and not previously notified, receives notice of and fully understands, his rights under this regulation.

206. **Evidence when to be taken on oath or affirmation:-** (1) Evidence shall be recorded on oath or affirmation when a Board is assembled-

(a)on a prisoner of war, or

(b)in any other case when so directed by the convening authority.

(2) In such cases the Board shall administer an oath or affirmation to witness in the following form:-

"I……do swear in the name of God/ solemnly affirm that the evidence which I shall give before this board shall be the truth, the whole truth and nothing but the truth."

207. **Proceedings of board not admissible in evidence:-** The proceedings of a board or any confession or answer to a question made or given before a board shall not be admissible in evidence against a person subject to Naval laws relating to the Government of the regular Army or Air Force nor shall any evidence respecting the proceedings of the board be given against any such person except upon the trial of such person for willfully giving false evidence before the board, provided that nothing in this regulation shall prevent the proceedings from being used for the purpose of cross-examining any witness.

208. **Minutes of proceedings:-** (1) Subject to the provisions of these regulations, the proceedings of every board shall be recorded and prepared in accordance with any directions contained in the Navy orders in force for the time being and any instructions given by the convening authority.

(2) The minutes of such proceedings shall contain a verbatim report of all the evidence given and all questions and answers shall be numbered in one series throughout the minutes.

(3) In making up the record of the minutes the sheets shall be securely fastened and numbered consecutively.

(4) A list of the witnesses giving the serial number of questions put to each and a list of the exhibits shall be attached to the proceedings.

(5) All documentary exhibits shall be placed in the order in which such documents are produced at the inquiry and shall be numbered consecutively and attached to the proceedings, the minutes of which shall be forwarded together with all enclosures to the convening authority in the prescribed form.

(6) The written order convening the Board shall be returned to the convening officer with the minutes of the proceedings and shall form a part of the record.

(7) The convening authority shall, having regard to the fact that copies may have to be supplied to persons concerned in the result of the inquiry, should the proceedings be followed by a court-martial arising out of the same subject matter, give directions as to the number of copies of the proceedings which are required and it shall be the duty of the president of the board to see that enough copies of all exhibits are made, one copy to go with such set of papers.

(8) The minutes shall be signed by all the members of the Board and if a difference of opinion among the members arises then the board is required to make a report or give its findings the grounds of such difference shall be stated fully.

(9) On receipt of the minutes of the proceedings including the report from the Board, the convening authority shall: -

(a) take such actions as is within its jurisdiction and as it may deem fit to take; and

(b) submit the same together with its comments thereon to the higher authority-

(i) if required to do so under the orders issued from time to time by the Chief of the Naval Staff; or

(ii) if the convening authority deems it necessary so to do.

Provided that nothing in this regulation shall be construed as debarring the convening authority from taking appropriate action with his jurisdiction.

209. **Right of certain persons to copies of proceedings:-** The following persons shall be entitled to a copy of the proceedings of a board not including any report made by the board:-

(a) Any person subject to Naval law who is tried by a court-martial in respect of any matter or thing which has been reported on by a board; or (b) Any person in Government service whose character, conduct or reputation is, in the opinion of the chief of the Naval Staff, affected by anything in the evidence before or in the report of a board, unless the Chief of the Naval Staff sees reason to order otherwise.

Explanation:- For the purpose of this regulation "proceedings " shall include findings of the board but shall not include recommendations of the board.

CHAPTER - VIII
DISCIPLINE – MISCELLANEOUS PROVISIONS

210. **Injury to civilians:-** (1) When a member of the Indian Navy seriously injuries a cvilian, the Commanding Officer shall immediately hold a thorough investigation in order to ascertain the facts and he shall report the matter to the senior Naval Officer present and to the District Magistrate without delay.

(2) If the civil authorities investigate the case, the Commanding Officer shall give them every assistance.

(3) The Medical Officer who first attended the injured person shall immediately report to the civil and Naval authorities concerned the nature and extent of the injuries and his opinion as to their probable result.

211. **Running 'Amok':-** (1) When a armed sailor has broken loose (in the manner commonly known as "running amok") and is at large threatening or purposing to kill anyone in particular or all in general, it shall be the duty of all officers, Petty Officers and sailors to take steps to effect his capture and to prevent him carrying his threats or purpose into execution.

(2) For the purpose of sub-regulation (1) an officer, Petty Officer or sailor shall be entitled to take such measures of force as may be necessary in the circumstances of the case and may take the life of the offender if there be no other reasonable means of preventing him carrying his threats or purpose into execution; and if it appears from the offender's action, such as laying down of his arms, that he intends to surrender, he shall be arrested in the ordinary way and dealt with in due course.

NOTE 1:- It is not necessary for an officer or sailor before taking measures of force, to go up to the sailor who is "running amok" and demand his surrender if by so doing he would incur imminent risk of losing his own life.

NOTE 2:- An order to shoot down the offender in such cases given by an officer, a Petty Officer or sailor shall be a lawful command to be obeyed.

212. **Persons in civil employment – misconduct:-** (1) Where an officer or a sailor while serving under a civil department of the Central Government or State Government misbehaves he shall be dealt with under the appropriate civil rules, unless the misconduct was some act or omission of the person in his Naval as opposed to his civil capacity and if his act or omission in a Naval capacity were an offence under the act his case shall be dealt with as prescribed by the Act.

(2) Nothing in this regulation shall prevent a person from being dealt with under the Act for any misconduct in his civil capacity if the Government or the Chief of the Naval Staff so considers fit and the offence is one which is triable under the Act.

213. **Commanding Officers – General Instructions:-** (1) The Commanding Officer shall-

(i) at all times and in all circumstances show an example of respect and obedient to his superiors;

(ii)see that all the officers obey the several instructions which are addressed to them, or which, though of general purport, concern them;

(iii) correct or report to his superiors any reprehensible conduct on the part of those under his command;

(iv) notice the conduct and abilities of those under his command in order that he may be enable to give them the testimonials they deserve, or , if called on, to make correct reports of their merits;

(v) While upholding the legitimate authority of all the officers under his command, check by timely reproofs any tendency he may notice to abuse of power, showing by his example that a firm but conciliatory manner of conducting duty is the surest way to gain the respect and confidence of sailors.

214. **Sailors placed in the report:-** The leave of sailor shall not be stopped when they are placed in the report unless they are so placed for any of the offences mentioned in regulation 36 (2) (a) to (i).

215. **Logging offences:-** (1) If the Commanding Officer should consider and offence committed by an officer to be of such a nature as to necessitate its being recorded with a view to future reference under the provisions of clause (a) (ii) of sub- section (1) of section 119 he shall cause the facts to be entered in the ship's log and the statement which is logged shall be read by the officer who shall sign his name to it as evidence of his knowledge of the entry; and at the same time, a copy of the entry and the signature thereto shall be prepared and certified by the Commanding Officer in accordance with sub-section (1) of section 133 for production at any court-martial where the same may be required.

(2) The copy of the entry in the log book shall be filed in the commanding Officer's office until the ship pays off, when it shall be destroyed.

215A. Mulcts of pay and allowances for improper absence in respect of officers-scale of mulcts:- (1) Every officer who is found guilty by a Naval tribunal of absence without leave or improperly leaving his ship or place of duty shall be punished with each mulcts of pay and allowances at the rate of one day's mulcts for each day's absence or part thereof, in addition to any other punishment otherwise awarded by the Naval tribunal.

(2) For the purpose of these regulations a day's pay shall include full pay and allowances but shall not include kit-up-keep allowance.

(3) The scale of mulcts shall not apply to officers who are found guilty of desertion.

(4) Mulcts of pay and allowances shall be debited against the officer's account in one lump sum as modified by such sentence in case of forfeiture of seniority and the sum so debited shall be regarded as a definite fine for the offence and, shall not subsequently be altered as and when an increase of pay is granted with retrospective effect, or when an offender may be credited with the balance of the increased emoluments for days upon which he would otherwise have been mulcted in full.

(5) The provisions of sub-regulation (1) to (4) above shall not apply to officers who are only absent from a part of their ship.

(6) **Calculation of period of absence:-** (i) The period of improper absence included in the charge shall strictly be computed from the time when leave expires (or the time of breaking out) until the time of return to the ship or place of duty.

(ii) When an officer surrenders, or is apprehended as an absentee away from his ship or place of duty or the locally in which his leave expires, the Commanding Officer may,

having regard to the circumstances, consider the absence as having terminated at the time of such surrender or apprehension.

(iii) When an absentee is arrested by the civil authority on another charge and is subsequently handed over to the Naval authority, his absence without leave shall be regarded as ceasing from the time of his arrest by the civil authority.

215B. Mulcts of pay and allowances for improper Absence in RESPECT of sailors on Conviction by a Court Martial:- Every sailor who is found guilty of absence without leave or improperly leaving his ship or place of duty by a Court Martial under section 51 of the Act, shall be awarded Mulcts of pay and allowances as provided in Regulation 41 to 49 of Regulations for the Navy part II.

216. Misconduct of Officers-termination of service by Government on grounds of misconduct:- (1) When it is proposed toterminate the service of an officer under section 15 on account of misconduct, he shall be given an opportunity to show cause in the manner specified in sub-regulation (2) against that action:

Provided that this sub-regulation shall not apply:-

(a) Where the service is terminated on the ground of misconduct which has led to his conviction by a civil court; or

(b) Where the Government is satisfied that for reasons, to be recorded in writing, it is not expedient or reasonably practicable to give to the officer an opportunity of showing cause.

(2) When after considering the reports on an officer's misconduct, the Government or the Chief of the Naval Staff is satisfied that the trial of the officer by a court-martial is inexpedient or impracticable, but is of the opinion that the further retention of the said officer in the service is undesirable, the chief of the Naval Staff shall so inform the officer together with all reports adverse to him and he shall be called upon to submit, in writing, his explanation and defence;

Provided that the Chief of the Naval Staff may withhold from disclosure any such report or portion thereof it, in his opinion, its disclosure is not in the interest of the security of the state.

(3) In the event of the explanation of the officer being considered unsatisfactory by the Chief of the Naval Staff, or when so directed by the Government, the case shall be submitted to the Government with the officer's defence and the recommendation of the Chief of the Naval Staff as to the termination of the officer's service in the manner specified in sub-regulation (5).

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(5) When submitting a case to the Government under sub-regulation (3), the Chief of the Naval Staff shall make his recommendation whether the officer's service should be terminated and if so, whether the officer should be-

(a)dismissed from the Naval Service; or
(b)discharged from the service; or
(c)called upon to retire; or
(d)called upon to resign.

(6) The Government after considering the reports and the officer's defence, if any, as the case may be, and the recommendation of the Chief of the Naval Staff, may dismiss or discharge the officer with or without pension or call upon him to retire or resign and on his refusing to do so, the officer may be compulsorily retired or discharged form the service on pension or gratuity, if any, admissible to him.

217. Termination of service of officers by the Government on grounds other than misconduct:- (1) When the Chief of the Naval Staff is satisfied that an officer is must unfit to be retained in the service due to inefficiency or physical disability, the officer-

(a)shall be so informed,

(b)shall be furnished with the particulars of all matters adverse to him, and

(c)shall be called upon to urge any reasons he may wish to put toward in favor of his retention in the service.

Provided that clause (a) (b)and (c) shall not apply if the Chief of the Naval Staff is satisfied that for reasons to be recorded by him in writing, it is not expedient practicable to comply with the provisions thereof;

Provided further that the Chief of the Naval Staff may not furnish to the officer any matter adverse to him if, in his opinion, it is not in the interest of the security of the state to do so.

(2) In the event of the explanation being considered by the Chief of the Naval Staff unsatisfactory, the matter shall be submitted to the Government for orders, together with the officer's explanation and recommendation of the Chief of the Naval Staff as to whether the officer should be-

(a)called upon to retire; or

(b) called upon to resign.

(3) The Government after considering the explanations, if any, of then officer and the recommendation of the Chief of the Naval Staff, may call upon the officer to retire or resign, and on his refusing to do so, the officer may be compulsorily retired or discharged from the service on pension or gratuity, if any, admissible to him.

218. Release on medical grounds:- (1) An officer who is found by a medical board to be permanently unfit for any form of Naval service may be released from the service in accordance with the procedure laid down in this regulation.

(2) The president of the medical board shall, immediately after the medical board has come to the conclusion that the officer is permanently unfit for any form of Naval service, issue a notice specifying the nature of the disease or disability he is suffering from and the finding of the medical board and also intimating him that in view of the finding he may be released from the services;

Provided that where in the opinion of the medical board the officer is suffering from a mental disease and it is either unsafe to communicate the nature of the disease or disability to the officer or the officer is unfit to look after his interest, the nature of the disease or disability shall be communicated to the officer's next-of-kin who shall also have the right to petition under sub-regulation (3).

(3) Every such notice shall also specify that the officer may, within fifteen days of the date of receipt of the notice prefer a petition against the finding of the medical board to the Chief of the Naval Staff through the President of the medical board.

(4) If no petition is preferred within the time specified in sub-regulation (3) the officer may be released from the service by an order to that effect by the chief of the naval staff

(5)If a petition is preferred within the time specified in sub-regulation (3), it shall be forwarded to the Government together with the records thereof and the recommendation of the Chief of the Naval Staff and the Government may, after considering the petition and the recommendation of the Chief of the Naval Staff, pass such order as it deems fit.

219. Date from which dismissal, discharge, retirement, resignation takes effect:- (1) The dismissal or discharge of an officer under section 15 or the retirement, resignation or release of such officer shall take effect from the date specified in that behalf in the order of dismissal, discharge, retirement, resignation or release, as the case may be, and shall be, and notified in due course in the official Gazette; (2) The dismissal, discharge, retirement, resignation or release of persons subject to Naval law shall not be retrospective

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221. Sleeping on board:- (1) If the Commanding Officer should be absent for the night or by reason of sickness or for other cause, has cesed to exercise command, an Executive officer not below the rank of Lieutenant Commander or if no such officer is borne, the Executive officer of the ship shall sleep on board.

Provided that the provisions of this regulation may be relaxed by the Commanding Officer of the ship concerned, in the case of ships of the size of frigate and below and, with the special permission in writing of the senior Naval Officer present, in the case of other ships.

(2) No other officer shall remain out of his ship for the night without the previous sanction of the Commanding Officer.

222. Duties and privileges of Petty Officers:- (1) All Petty Officers shall be granted every reasonable indulgence and shall be made to feel that confidence is reposed in them and shall be treated with the consideration which is due to the position of trust which they hold.

(2) The prefix "Master Chief Sahib" or "Chief Petty Officer" or "Petty Officer" or the corresponding prefix in the case of non-seaman sailors shall be used by all ranks when addressing or speaking of sailors holding those ranks.

(3) on all occasions of sailors falling in, Petty Officers shall do so separately from lower ranks, and when classes of instruction are formed Petty Officers shall be classed up by themselves.

(4) Petty Officers shall be shown in the ship's book distinct from lower ranks. The separation is to be made by classes (Seaman, Artificers and the like) and the Petty Officers shall be shown on separate sub-divisions of their respective lists.

(5) Petty Officers shall not be mustered in and out of the ship unless for some special reasons, nor shall they undergo personal search by the regulating staff unless the Executive Officer or the Commanding Officer for any special reason in any particular case shall order otherwise.

(6) Separate lines shall be appropriate for hanging their clothes and hammocks and their hammocks shall be stowed together in a part of the netting reserved for them.

(7) Petty Officers dressed in the established uniform may be allowed to pass dockyard gates and out parties of men.

(8) The discipline of the ships and establishments and the comfort of the men is dependent in a great measure on the manner in which Petty Officers carry out their duties and maintain their position and it is essential that the importance of their position and of the influence which they should exercise on the discipline, efficiency and morale of the Service as a whole should be realized throughout the service.

(9) The convening authority shall submit all proceedings of the board seniority and on passing certain examinations. They must possess personality and tact and be ready to accept responsibilities of their position. They should work at all times for the well-being and efficiency of the Service as a whole. They should set an example of loyalty and discipline; and must obey the orders of their superiors with the same cheerfulness

and alacrity with which they expect to be obeyed by their juniors. Commanding Officers and officers look to the Petty Officers for loyal support in maintaining the efficiency and traditions of the Service. Junior sailors look to them for direction and assistance.

(10) It shall be the duty of Petty Officers to preserve order and regularity wherever the crew or any part of it may be employed and this responsibility rests upon them whenever they are with the men, whether on duty or not.

223. **Duties and privileges of leading sailors:-** (1) All leading sailors shall be granted every reasonable indulgence and they shall be made to feel that confidence is reposed in them and shall be treated with the consideration which is due to the position of trust which they hold.

(2) On all occasions of sailors falling in, leading sailors shall do so separately from other sailors except on ceremonial parades, when leading sailors may be included in the ranks.

(3) Leading sailors dressed in the established uniform shall be allowed to pass dockyard gates and may also pass out parties of men.

(4) It shall be the duty of leading sailors to preserve order and regularity wherever the crew or any part of it may be employed and this responsibility rests upon them whenever they are with the sailors whether on duty or not.

224. **Articles of war:-** Chapter VIII of the Act shall be read quarterly to the ship's company and the printed sheets containing the English and the Hindi versions of that Chapter shall be displayed in an accessible part of the ship for the information of the ship's company.

225. **Naval sailors in Military Detention Barracks:-** (1) In the event of any sailor who is undergoing sentence in a military detention barracks committing an offence too serious to be dealt with under the rules for military detentions barracks, the matter shall be reported to the Commanding Officer of the ship on whose books the sailor is borne in order that he may be dealt with under the Act.

(2) In deciding how to deal with the case, the Commanding Officer shall bear in mind that before the accused can be tried he must be removed from the detention barracks.

(3) An escort shall be sent to remove the offender from the detention barracks and if his original sentence has not expired, offender shall be furnished with an order in writing under section 154 directing.

(a)if the offender is to be dealt with summarily, that he be discharged (b)if the offender is to be tried by court-martial, that he be delivered over to Naval custody for trial.

226. **Discharge from prison or detention:-** (1) If a prisoner or a person under detention should be discharged under the provisions of section 154 such discharge shall have the effect of remitting any portion of his sentence that may be unexpired at the date of such discharge, except in the case of his delivery to Naval custody for the purpose specified in the latter part of the said section.

NOTE: - The power under this regulation shall be exercised with great discretion and shall not be exercised except where the service of offenders are required in emergency.

227. **Custody of firearms** – (1) The commanding Officer shall be responsible for the stowing of the rifles in authorized racks and for the proper security of the racks.

(2) When the ship is in dockyard hands the rifles shall be deposited with the Naval Armament Supply Officer, Bombay and if dockyard workmen are employed on board

when the ship is not in dockyard hands, all rifles and baynets shall be removed from any compartment in which work is going to be carried out, before work commences and placed in a safe place and such rifles and baynets shall not be returned to their original stowage until the work is completed and the workmen before left the ship.

(3) The pistols supplied to ship shall be kept in racks or cupboards with a glass front near a sentry post or in the officer's quarters and in such a position that the absence of one pistol can be readily observed.

(4) Pistols when in the racks shall be secured from removal by a chain passed through the trigger guard and locked.

(5) Pistols shall not be removed from their racks except for action, drill or cleaning purpose.

(6) The keys of the pistol cupboard and of the chain passing through the trigger guards shall be kept on the ship's (important) keyboard.

(7) In the event of loss of the rifle or pistol, the commanding officer shall at once hold a careful investigation into the loss and forward his report containing the number, if known, of the pistols or rifles lost to the Administrative Authority as soon as possible.

(8) The local police authorities shall always be informed as soon as practicable of the loss of the rifle or pistol.

228. **Articles found lying about :-** Specific directions shall be given in ships orders for the disposal of all articles found lying about which are not the property of the finder.

229. **Prohibition on sale/consumption etc. of certain articles:-** (1) No sort of beer, wine, spirituous liquor, opium or other narcotics drugs or psychotropic substances shall be sold on board by any person nor shall any person belonging to the ship sell articles of any other description to any other person belonging to the ship without the written sanction of the Commanding Officer and all loans, transfers, gifts or barters of spirits, intoxicating drinks, opium or other narcotics drugs or psychotropic substances are hereby prohibited on board.

(2) Tradesman shall not be permitted to board the Indian Naval Ship to sell their goods or obtain orders and where the exclusion of a particular tradesman from boarding one of the Indian Naval Ship would cause real inconvenience to the ship's company, the circumstances shall be reported to the Administrative Authority for consideration.

(3) The Administrative Authority may at its discretion permit the sale of newspapers on board.

(4) The distribution in ships of circulars or advertisement for the promotion of raffles is hereby prohibited.

EXPLANATION:- For the purpose of this regulation words narcotic drugs "and" "psychotropic substances" shall carry the meaning assigned to these words in the Narcotic drugs and psychotropic substances Act 1985 (61 of 1985).

230. **Persons drunk on shore:-** A person belonging to any ship who is too drunk on shore to return on foot without discredit to the service or prejudice to good order may be taken to his ship or establishment by cab or other conveyance and the fare recovered from his pay.

231. **Landing rations etc.:-** (1) Provisions or stores shall not be issued on shore or taken out of the ship for any other purpose than for victualing portions of the crew when absent on duty or on other public service.

(2) Whenever it may be necessary for personnel to take their provisions on shore when proceeding on duty, the Commanding Officer shall furnish a pass showing the names of

the persons in whose favour it is issued, and the exact quantity of provisions allowed for their consumption.

(3) When provisions or clothing are sent out of the ship, they shall invariably be accompanied by written passes, signed by the supply officer or his deputy and approved by the Commanding Officer showing the quantity and the date.

(4) Passes shall be valid for the quantities and the date for which they are issued, and shall be produced when required for the information of any police officer or constable or any person acting under the customs or revenue laws.

232. Offences by passengers:- Any person although not belonging to the Indian Navy or the Regular Army or Air Force who is ordered to be received or is a passenger on board any ship or Air Craft of the Indian Navy shall be subject to Naval Law to the extend and subject to the conditions hereinafter mentioned, namely:- (a) Any such person who while on board a ship or an Aircraft of the Indian Navy commits any offence against the good order and discipline of the service may be placed under such restraint by the officer in Command of the ship or Aircraft in which he has embarked as the offence or offences committed by him may appear to justify or render necessary and the officer who has occasion to place any such passenger under arrest shall take the earliest opportunity that presents itself of reporting the circumstances to the first senior officer he may fall in with, in order that it may be determined, after due investigation. Whether the alleged offender shall be released from arrest or continue under arrest until the termination of the voyage for which he has embarked or whether he shall be transferred to some other ship or Aircraft of the Indian Navy.

(b) If any such person while on board a ship or Aircraft of the Indian Navy commits any criminal offence punishable by the law of India he may be kept under such restraint as is necessary until an opportunity shall offer of delivering him over to a civil court competent to try him for the same.

(c) Nothing in this regulation shall preclude any person on board a ship or Aircraft of the Indian Navy or on board any ship in the service of the Government to be proceeded against for an offence punishable under section 44.

(d) Officers and sailors who, upon being invalided or discharged, may be ordered or permitted to take passage in any Indian Naval Ship or Aircraft and persons sentenced under the Act so long as they are on board the ship in which they are embarked as passengers shall be subject to Naval Law.

233. Summoning of witnesses:- (1) When the presence of a witness, required to give evidence before a commanding officer or an officer preparing the summary of evidence or before a Board Inquiry or before a court-martial cannot otherwise be obtained, summons may be issued in accordance with the following provisions:-

(a)the summons shall be in the prescribed form.

(b)In the case of a witness subject to Naval Law or a Law relating to the Government of the regular Army or Air force, the summons shall be served upon the individual through his Commanding Officer or other superior authority as may be most convenient and in the case of any other witness who is a Government servant, the summons may be served upon the head of the office in which he is serving.

(c)In the case of every witness the summons shall be served by causing it to be delivered personally or sending it by registered post or it may, in accordance

with section 134(4), be sent to the Magistrate in whose jurisdiction the witness may be or resides.

(2) The prescribed officers under sub-section (2) of section 134 relating to the summoning of witnesses before a Commanding Officer or the officer preparing a summary of evidence shall be the Administrative Authority or the Judge Advocate and the prescribed officers under that sub-section relating to the summoning of the witnesses before a Board of Inquiry, shall be the convening authority or the president of the Board.

(3) A civilian witness in Government service not subject to Naval law, who is summoned under section 134 attend a court-martial, disciplinary court, Board of Inquiry or before the Commanding Officer or other officer preparing a summary of evidence, shall be entitled to receive traveling allowances under civil rules or Traveling Regulations according to whether he is serving in a civil department or in the Defence Services, provided that the facts as to which he is to give evidence have come to his knowledge in the discharge of his public duties.

(4) A civilian witness, not subject to Naval law and not in Government service, when called to appear before a court-martial, disciplinary court, Board of Inquiry or before the Commanding officer or other officer preparing a summary of evidence shall be entitled to traveling and subsistence allowances at the rates fixed by the local Government, High Courts or administrations for non-official witness appearing before the Courts of law under their jurisdiction and such rates of allowances shall be ascertained and paid through the Magistrate where witnesses are called through him and in other cases, the rates of the allowances shall be ascertained from the Magistrate in whose jurisdiction the witness resides at the time he is summoned to give evidence and paid by the summoning authority.

(5) It shall be the duty of summoning authority to advance to the witness, through the Magistrate if he is called through a Magistrate, otherwise direct, a sufficient sum to cover his traveling expenses and arrange payment to him of the subsistence allowance expenses on account of return conveyance before he leaves the station to which he is summoned.

(6) Civilian witnesses, not subject to Naval Law and not in Government service, when called upon to give expert evidence shall, in addition, be paid fees for their expert evidence or service subject to the approval of the competent financial authority under whose powers the amount at issue falls.

(7) Private individuals employed as interpreters and shorthand writers before a court-martial, disciplinary court or board of Inquiry shall be paid out of pocket expenses for their services at the discretion of the president of the court-martial, disciplinary court or Board of Inquiry subject to the approval of the competent financial authority under whose powers the amount at issue falls.

234.<u>Representation affecting conditions of service:-</u> (1) Any sailor who wishes to make a representation affecting his welfare or who has any suggestion to make connected with the service, shall bring the subject to the notice of his Divisional Officer through his Divisional Petty Officer.

(2) Whether the matter affects one individual or more than one individual, the procedure prescribed in sub-regulation (1) shall invariably be followed.

(3) If the representation is one with which the Divisional Officer cannot himself deal, he shall bring it to the notice of the Executive Officer (through the departmental officer, where applicable) and subsequently, if necessary, through

him to the Commanding Officer, and so to higher authority as the circumstances may require.

(4) It shall be the duty of every Chief Petty Officer, Petty Officer or leading sailor to keep himself informed of any cause of complaint or dissatisfaction among the sailors and to inform his Divisional Officer so that the matter may be investigated.

NOTE:- A copy of this sub-regulation in English and Hindi shall be kept permanently posted on a notice board in all Chief Petty Officer's and Petty Officer's messes.

(5) The provisions of this regulation shall not affect-

(a)the procedure by which sailor may bring requests before Inspecting Officers at inspection in accordance with the custom of the service;

(b)the custom by which any sailor is allowed to request, through his Divisional Officer, to see the Commanding Officer with regard to matters of private nature;

(c)the custom by which complaints of an immediate nature other than those about food, may be taken before the officer of the watch;

(d)the customary procedure by which complaints of an immediate nature about food in ships and establishments under the general mess system, are in the first instance, taken to the senior cook sailor in the galley, or in ships and establishments organized for centralized messing, to the sailor in charge of the dining hall.

235. Complaints to Higher Authority:- (1) If an officer or a sailor thinks that he has suffered any personal oppression, injustice or other ill-treatment or that he has been treated unjustly in any way, he may after due consideration, make complaint in accordance with these Regulations.

(2) Any other method of seeking a redress from a superior authority, save those mentioned in these regulations, is forbidden.

236. To whom the complaint shall be made:- (1) If the complainant be a Commanding Officer of an Indian Naval Ship, his complaint shall be in writing and addressed to his immediate superior.

(2) If the complainant be an officer serving in one of Indian Naval Ship, his complaint shall be made orally to the Commanding Officer, in accordance with the Service custom whereby a complainant is to make an oral request to see the Commanding Officer for that purpose. If the complainant is an officer below the rank of Captain, such request shall be made through the Executive Officer, and if

the complainant is not the Head of Department, the request shall be made in the first place to the Head of the Department.

(3) If the complaint is serving in a Naval establishment not commissioned as a ship and not under the command of a Commanding Officer of one of Indian Naval Ship, the complaint shall be made orally to his immediate superior.

EXPLANATION: for the purpose of this regulation the term "Naval establishment " shall, in addition to Naval Head quarters and Naval Dockyard, include offices of Administrative Authorities, Naval Officer-in-Charge and Resident Naval Officers of Ports and Naval Advisers to Indian Missions abroad.

(4) If the complainant is an officer who is not serving in a Naval establishment, he shall submit his complaint to his immediate superior, either orally or in writing as may be practicable.

(5) If the complainant is a sailor, his complaint shall be made orally to the Commanding Officer. A request to see the Commanding Officer shall be made to the Executive Officer through the complainant's Divisional Officer and Head of the Department. A sailor detached from his ship or establishment shall make his complaint to the officer under whose command he may be at this time.

237. **Assistance to Complainant:-** If the complainant be an officer of Junior rank or a sailor, he may request any officer in his to advise and assist him in the statement of his case at all stages. If no such request is made, it shall be the duty of the Divisional Officer, or such other officer as the Commanding Officer may detail, to give his assistance, Such officer shall point out to the complainant the rules to be observed under regulation 238.

238. **Rules to be observed by the Complainant:-** (1) Complainant shall be confined to a statement of facts complained of and to the alleged consequences to the complainant himself.

(2) Joint complainants by two or more persons are not allowed; each individual shall make his own complaint.

(3) It shall be an offence against good order and Naval discipline to make a complaint, either oral or written, which includes a statement of fact which is untrue to the knowledge of the complainant.

(4) It shall be an offence against good order and Naval discipline to make a complaint in terms, which comprise language or comments that are disrespectful or insubordinate or subversive of discipline, except in so far as such language or comments are necessary for an adequate statement of the facts.

239. **How the complaint shall be dealt with:-** (1) On receipt of any complaint, the Commanding Officer or other officer receiving the same shall satisfy himself that the complaint is made in accordance with these Regulations. He shall then deal with it in the exercise of his discretion as may seem to him right, and cause the complainant to be informed of his decision.

(2) If the Commanding Officer or the other officer receiving the complaint refuses or is unable to remedy the complaint so made, the complainant may respectfully ask that he may be allowed to make his complaint in writing, and on receiving such request, the Commanding officer or the other officer shall give the complainant 24 hours to reconsider the matter. The complainant, while still having the assistance of the officer referred to in Regulation 237, may then address his complaint to the Commanding Officer or the other Officer in writing, who shall then forward the complaint to his next superior officer, together with his own remarks thereon, to be dealt with in accordance with sub-regulation (1).

(3) If the complainant is not satisfied with the decision on his complaint, or if he does not get the redress asked for within a period of one month from the date of submission of his complaint or the date of its despatch to the next superior authority, as the case may be, he may request that his complaint be forwarded to the next superior authority and so on to the Chief of the Naval Staff to be dealt with in accordance with sub-regulation (1) and (2) and finally to the Government and all such requests shall be complied with. The complainant shall be justified in appealing direct to the next superior authority if he does not receive the final reply within a period of six months from the date of submission of his complaint.

(4) No officer or sailor shall be penalized for having made a complaint in accordance with these regulations.

240. **Remarks or criticism on superiors:-** Except as specifically permitted in these regulations, no officer or sailor shall make remarks or pass criticism on the conduct or orders of his superiors which may tend to bring them into contempt,. No officer shall say or do anything which, if heard or seen by or reported to those under him, might discourage them or render them dissatisfied with their condition or with the service on which they are or may be employed.

241. **Combinations:-** (1) All combinations of officers or sailors for the purpose of bringing about alteration in the existing regulations or custom of the Service, whether affecting their interests individually or collectively, are contrary to the tradition and practice of the service
and injurious to its welfare and discipline.

(2) Every officer or sailor shall be entitled individually to make known to his superior any proper cause of complaint, but individual officers or sailors shall not combine, either by the appointment of committees or in any other manner; nor shall they sign collectively memorials, petitions or applications, nor obtain signatures to such documents.

Appendix I
List if Prescribed Forms

Forms No.	Subject of the form	Relevant Section/Regulation
1.	Punishment Warrant From	Regulation 16
2.	Record of Offences Sheet	Regulation 72
3.	Daily Record of Offences and Punishments	Regulation 72 & 85
4.	Quarterly Punishment Return	Regulation 73
5.	Committal Order for Detention	Section 150 & Regulation 109
6.	Committal Order for Imprisonment	--------do--------
7.	Report of Arrest and Trial by Civil Power	Regulation 119(6)
8.	Specimen Charge Sheet	Regulation 155(15)
9.	Warrant ordering a Court Martial (To be used by Convening Authority holding a Commission from the Chief of the Naval Staff to order a Court Martial).	Regulation159
10.	Warrant ordering a Court Martial (To be used when a court martial is ordered by the President or the Chief of the Naval Staff).	Regulation 159
11.	Warrant by Convening Authority appointing Trial Judge Advocate	Regulation 161
12	Warrant Appointing Prosecutor	Regulation 163
13	Warrant Appointing Provost Marshal	Regulation 164
14	Warrant Appointing Officer of the Court	Regulation 165
15	Notice of Trial to the Accused	Regulation 169
16	Notice to the Prosecutor	Regulation 170
17	Form for intimating Defence Witnesses to the Trial Judge Advocate by the Accused.	Regulation 178(2)
18	Order of the Court and Report of Navigation Direction at Trial on Navigational Charge.	Regulation 183
19	Minutes of Proceedings	Regulation 190
20	Abstract of Certificates	Regulation 192(3)
21	Order for board of Inquiry	Regulation 200
22	From for forwarding Minutes of proceedings of Board of Inquiry Disciplinary Court etc.	Regulation 208
23	Form for Summoning witnesses required to give Evidence before a Board of Inquiry.	Regulation 204 & 233 and Section 134(2)
24	Summons for witness required to give evidence before officer preparing a Summary of evidence.	Section 134(2) & Regulation 233
25	Summons for witness required to give	Section 134(2) &
	evidence before a Commanding Officer.	Regulation 233
26	Summons for witness required to give evidence before a court martial	Regulation 233
27	Summons for witness required to give evidence before a court martial (witnesses not subject to Naval Law)	Regulation 233
28	Warrant for Arrest	Section 83

29	Warrant of Interim commitment Until Execution of the Sentence of Death.	Section 148
30	Warrant for Execution of a sentence of Death	Section 149
31	Order for transfer of Prisoner or Person under Detention.	Section 154
32	Order for Retransfer of Prisoner or person under Detention.	Section 155
33	Warrant for Removal of Insane persons	Section 156
34	Form for Retransfer of the Prisoner to the Jail or Detention Quarters.	Section 156

FORM / No. I

PUNISHMENT WARRANT FORM

(See regulation 16)

I.N.S…… Dated ……..19

Warrant No……..

For……
……

(Here specify all punishments for which, taken separately, a warrant would be required.)……
…....

Where as

Name……

Rank…… Official No ……. Good Conduct Medal…… Good Conduct Badges…… Glass for conduct…… Date of Birth……... Date of Entry in Naval Service…… Date of Entry in ship…… Character assessed to-date, from the last} Annual assessment, but not including } this offence)

Was charged for that he did (here insert full particulars of offence/s starting with the date of offence in each case.)

And Whereas I did, on the……day of……19

Personally and publicly, in the presence of the complainant and the accused, investigate the matter and whereas the accused pleaded guilty / to the charge /s.

(a) Having heard the evidence of (b) ……..in support of the charge/s a well as what the accused had to offer in his defence and the evidence of (b)…….whom he called on his behalf, I consider the charge/s to be substantiated against him and taking into consideration ……..that this is the……offence registered against him on his Conduct Sheet, I adjudge him to be punished as follows:-

(Insert below the particulars of the punishments)

(c) ……days mulcts have been remitted under regulation 42.

(d) Name of the place for detention / } imprisonment, (a) if awarded. }

(e)……..…..
…….……

Given under my hand on board Indian Naval Ship…….At…….the (f)……day of……19

Commanding Officer

Signature and the Rank of the Complainant.

(g) Read to the accused this (f)……day of……19

Signature……
Rank……..
Appointment……..

(h)……
……..……

FORMER OFFENCES

Particulars of all former offences during the last 6 months (if he has been in the ship) and any warrant punishments during any period in the ship prior to the last 6 months

MEDICAL CERTIFICATE IN CASE OF CELLS

Examined and found medically fit to undergo the punishment awarded.

Signature of the Medical Officer……
Rank……..
Date……..…….

SUBMISSION TO SENIOR OFFICER

I.N.S…….. Dated…….19.

Sir,

I beg to submit for your approval the following sentence to be awarded to the aforesaid accused: -

2. The accused's Service Certificate and conduct Sheet are enclosed herewith.

……. ……

Signature…….. Rank……

DECISION OF THE SENIOR OFFICER AND HIS REMARKS, IF ANY (f)

Signature……..

The Commanding Officer, Rank……..

I.N.S……

(a)Delete whatever is inapplicable.

Dated……

NOTES

(b) (i) Insert the names of witnesses for the prosecution and the defence. If the accused does not call any defence witnesses, the fact should be stated as-"and he calling no one on his behalf".

(ii) If the punishment awarded/proposed be imprisonment, detention, dismissal from the Naval Service or reduction in rank of a Chief Petty Officer or Petty Officer, a summary of evidence shall be recorded by the Commanding Officer and will accompany the Punishment Warrant.

(c) (i) All punishments sought to be awarded shall be noted here specifying clearly in all cases the nature, duration and extent of various punishments.

(ii) When the warrant requires the approval of the Senior Officer, this place is to be left blank and the punishments proposed shall be entered on Page 3 under "Submission to the Senior Officer". After Senior Officer's approval, sentence as approved is to be entered at this place.

(iii) When any medals are forfeited consequent upon conviction for desertion under section 49(2) read with regulation 136, the decision to that effect should be recorded in this space separately.

(d) The name of the place of imprisonment/detention shall be filled in, in accordance with regulation106.

(e) If a man is sentenced to imprisonment or detention and there is no proper place of confinement to which he can be set at once, and if it is not intended to keep him in close custody on board until a proper place of confinement is available, the following words are to be added here: -

"the said imprisonment or detention to take effect from the date on which he arrives at a place where there is a proper place of confinement".

In such cases, however, the provisions of regulations 93 and 94 are to be kept in mind.

(f) The date of reading and the date at the head of Page 1 and the date of award at the center of Page 2 should coincide.

(g) If the warrant, is read in the absence of the accused in accordance with regulation I9, this notation should be amended to read as follows: -

"Read in the absence of the accused this……day of……19……..he having been certified medically unfit to have the warrant read to him."

(h) No avoidable delay should take place in the investigation of the complaint or in the reading of the warrant and infliction of the punishment. If any substantial delay has taken place, the cause is to be stated at the bottom of Page 2.

(i) If the senior officer considers for any reason that punishment proposed is inadequate, he may alter the punishment within the limits of powers of punishment of a Commanding Officer and the punishment so altered shall be the punishment awarded. The senior officer may also approve the warrant for a punishment lower that proposed by the Commanding Officer. See regulations 16 to 20 and 25.

FORM No.2

RECORD OF OFFENCES SHEET

(Appendix I to "Recommendations for Promotion and Conduct Record Sheet" S-239)

(See Regulation 72)

Name……..Rank……. Port Division and Official Number……..

Offence(s)		awarded	awarded, Ship, Date and Warrant Number, if applicable	
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
……	……	……	……	……
Date of	Details of the offence(s)	Punishment	By whom punishment	Remarks

224 Naval-15

FORM NO.3
DAILY RECORD OF OFFENCES
AND PUNISHMENTS

(See regulations 72 and 85)

I. N. S…… BETWEEN ……..19 and…….19

NOTES

1. Separate records on this form are to be maintained in respect of (a) Sailors (including sea- going Boys) (b) Artificer Apprentices and (c) Boys under training.

2. All punishments inflicted on board the Ship including warrant punishments but excluding minor punishments awarded under sub-regulations (5), (6), (7) and (8) of regulation 21, shall be entered on date of award consecutively irrespective of the ranks of offenders.

3. This record is to be inspected and signed by the Commanding Officer weekly.

4. To be closed on the last day of each Quarter and forwarded with the appropriate punishment return.

5. Alphabetical category of offences to be noted in column 7 of this form shall correspond to the various categories specified in the Punishment Return.

S No.	Name ……... Rank …… O. No. …….. Class for conduct ……... Good Conduct Medal……. (Write G.C.M. if possessing Number of Good Conduct Badge) (Write these particular in this order for each sailor)	Date of		Warrant Number if punished by warrant.	Particulars of Offences	Alphabetical category according to the abstract of offences on the punishment	Punishment awarded	If not warde Commandi Officer, Signature rank of offi awarding punishment
		Offence	punishment					
1	2	3	4	5	6	7	8	9

FORM No.4
QUARTERLY
PUNISHMENT RETURN
(See regulation 73)

FOR Quarter ended…… with warrants Nos…… I. N. S……
Based at…….
Commanding Officer……

ABSTRACT OF OFFENCES PUNISHED SUMMARILY
CATEGORIES

A	B	C	D	
Desertion	Improper Absence (including breaking out with contempt of ship)	Insubordination including behaving	Other offences	Total offen
Sailors.				
Seagoing Boys.				
TOTALS.				

ABSTRACT OF SUMMARY

PUNISHMENTS

If two or more of these punishments be awarded to an offender at the same time, each kind of punishment should be shown and not the principal one only)

	Imprisonment	Detention	Dismissal from Naval Service	Disrating	Fine in respect of Civil offences	Reduction to Second class for conduct	Solitary confinement in a Cell	Deprivation of Good Conduct Medal or Badges	Non-warrant Punishment
*Sailors/Artificer Apprentices/Boys under training									
*Seagoing Boys TOTAL									

Average total number of Sailors (including Seagoing Boys) *Artificer Apprentices/Boys under training borne during the quarter……

*Delete whatever is inapplicable.

NOTES

1. Minor punishments awarded under Sub-regulations (5),(6),(7) & (8) of regulation 21 shall not be included in this return,

2. Separate forms are to be rendered in respect of Sailors (including Seagoing Boys), Artificer Apprentices and Boys under training.

COMMANDING OFFICER'S OPINION GENERAL CONDUCT OF SHIP'S COMPANY AND OF CAUSE OF INCREASE OR DECREASE IN OFFENCES

CERTIFICATE

I hereby certify that all the punishments inflicted on board this ship during the period covered by this return except those awarded under Sub-regulations (5),(6),(7) & (8) of regulation 21,

Regs. Navy Part II; have been included in the abstract of punishments and that the punishments are in accordance with the Regulations; and that in all cases where imprisonment, detention or cell punishment has been accompanied by stoppage of leave, the period of confinement has been reckoned as a portion of such stoppage.

Commanding Officer.

Dated…….

ADMINISTRATIVE AUTHORITY'S REMARKS

……..

Dated……

……

FORM No.5

COMMITTAL ORDER FOR DETENTION

(See Section 150 and Regulation 109)

To the Captain, Naval Detention Quarters (a) ……

WHEREAS at a court-martial/summary trial (b) held On board Indian Naval Ship …… at ……

On shore

On the…… day of……, 19…..,……

(Name of the prisoner) of Indian Naval Ship…… was found guilty of offence/s punishable under ©…… and sentenced to be kept under detention for (d)……

(e)AND WHEREAS I deem it expedient that the said …….

Shall be sent to the said Detention Quarters at…….

And that on arrival there he shall undergo his sentence subject to the deduction of any time during which he has been kept in confinement in respect of the said sentence

This is to authorize and require you to receive the said…….

In your custody in the said Detention Quarters, together with this warrant, and there to carry the aforesaid sentence into execution according to law.

Given under my hand and under the seal of my office this……day of ……..19……

Signature…… Seal

Rank……

Appointment……

The following certificate is to be completed by the Commanding Officer of the ship bringing the offender to the place of confinement, where the sentences has been postponed in accordance with section 151(2) of the Navy Act, 1957. It is not applicable to the case of an offender who is being transferred from one place of confinement to another.

I hereby certify that the said…….has been kept in confinement for……days in respect of his sentence.

Signature……

Captain Naval Detention Quarters…….

NOTES

(a) Particulars of the Detention Quarters.

(b) Delete as necessary

(c) Here quote the relevant section/s of the appropriate Act/Acts (Navy Act, 1957, I.P.C., etc.) under which the offences fall.

(d) Period of sentence

(e) This paragraph is to be used only when it is considered desirable under Section 151(2) of the Navy Act, 1957, to delay the execution of a sentence in consequence of the court-martial/summary trial being held at a place where there is no proper place of confinement to which the offender can be sent, either temporarily or otherwise {"confinement" in this paragraph means close custody vide regulation 92 (2).]

FORM No. 6

COMMITTAL ORDER FOR IMPRISONMENT

(See section 150 and regulation 109)

To the Superintendent (or Keeper) of (a)……
At……
WHEREAS at a court-martial/summary trial (b) held On board Indian Naval Ship at……...
on shore
on the……day of……,19……
(Name of the Prisoner)……..of Indian Naval Ship……was found guilty of offence/s punishable under © …… and sentenced to (d)……for (e)…… (f) AND WHEREAS I deem it expedient that the said……shall be sent to the said jail at……., and that on arrival there he shall undergo his sentence subject to the deduction of any time during which he has been kept in confinement in respect of the said sentence.

This is to authorize and require you to receive the said……..
In your custody in the said jail, together with this warrant, and there to carry the aforesaid sentence in to execution according to law.

Given under my hand and under the seal of my office this…….Day of……., 19

Signature……
Rank…… Seal
Appointment……

The following certificate is to be completed by the Commanding Officer of the ship bringing the offender to the place of confinement, where the sentence has been postponed in accordance with section 151(2) of the Navy Act, 1957. It is not applicable to the case of an offender who is being transferred from one place of confinement to another.

I hereby certify that the said……
Has been kept in confinement for……days in respect of his sentence.

Signature……
Commanding Officer, Indian Naval Ship……

NOTES

(a) Particulars of the prison.

(b) Delete as necessary

(c) Here quote the relevant section/s of the appropriate Act/Acts (Navy Act, 1957, I.P.C. etc.) under which the offences fall.

(d) Details of sentence (rigorous imprisonment, simple imprisonment etc.)

(e) Period of sentence

(f) This paragraph is to be used only when it is considered desirable under section 151(2) of the Navy Act, 1957, to delay the execution of a sentence in consequence of the court-

martial/summary trial being held at place where there is no proper place of confinement to which the offender can be sent, either temporarily or otherwise [“Confinement” in this paragraph means close custody vide regulation 92 (2)].

FORM No.7

REPORT OF ARREST AND TRIAL BY CIVIL POWER

[See Regulation 119(6)]

NOTES. – (i) This report is not required for absentees and cases dealt with under regulation 132.

(ii) To be accompanied by Service Certificate and Conduct Sheet. Copy of Service Certificate and of this form to be forwarded it penalties mentioned in heading 9(iii) below are proposed, or if discharge is applied for.

I. N. S. ----------No.----------Date----------

Name……..Rank……...Personal No……..

G.C. Medal……Class of Conduct…….. No. of G. C. Badges……Character……

1. Particulars of arrest: Date and hour----------
Place----------

2. If on leave: (a) Date and time at which leave expired …….

(b) Date and hour of return to ship if released pending trial……...

3. Date of trial…….

4. Date and hour of return to ship after trial…….

5. Before what court charged…….

6. Offence in exact terms of charge…… 7. Order of Court in exact terms of order

(If offender was fined, state whether fine was paid)

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8. Rank and name of officer who attended the trial……. 9. If convicted which, if any, of following Naval penalties are proposed: - (i) Stoppage of pay and time [regulation 119(1)].

……days

(ii) (a) Deprivation of G. C. Medal……

(b) Deprivation of G. C. Badge or Badges…… *© Break in continuity of "Very Good" conduct for badge purposes…….

(d) Stoppage of leave (not to exceed 30 days)……days

(e) Inferior character at end of year……

(iii) (a) Reduction in rank……

(b) Reduction to 2nd Class for Conduct……

*If this penalty is enforced the date of conviction is to be noted on page I, column 4, of the offenders Conduct Sheet as the date of commencement of "Very Good" conduct.

Commanding Officer's observations on the case and remarks as to Proposed Penalties

The Chief of the Naval Staff. Commanding Officer……

Division of the Chief of the Naval Staff

Signature_____ Dated_____

Rank_____ The Commanding Officer,

I.N.S._____

(After action this

FORM No.8

SPECIMEN CHARGE SHEET

(See Regulation 155(15)]

The accused (Name, Personal Number, if any, rank or ship on which borne), a person subject to naval law is charged for that

(I) On …….. day of ……. at about he did strike Lieutenant CD, his superior officer and thereby committed an offence punishable under section 45 of the Navy Act, 1957.

(2) On day of at about he did willfully disobey the lawful command of the superior officer when ordered to and thereby commit an offence punishable under section 47 of the Navy Act, 1957.

(3) On day of at about he did dishonestly misappropriate certain properly to wit belonging to XY and thereby committed an offence punishable under section 77 of the Navy Act, 1957 read with section 403 of the Indian Penal Code.

Signature……
(Commanding Officer, I. N. S.)
Countersigned……
(Convening Authority)

FORM No.9

WARRANT ORDERING A COURT-MARTIAL (TO BE USED BY CONVENING AUTHORITY HOLDING A COMMISSION FROM THE CHIEF OF THE NAVAL STAFF TO ORDER A COURT MARTIAL

(See Regulation 159)

By

Whereas …… of Indian Naval Ship……..has transmitted to me a letter alleging the misconduct of……..(hereinafter referred to as the accused) and whereas I think fit that the accused shall be tried by court-martial, I do hereby in exercise of the powers conferred on me by omission from the Chief of the Naval Staff order a court-martial to be held for the trial of the accused on the charges listed in the accompanying charge-sheet and nominate you as president thereof.

You are to summon other officers to sit on the court-martial in accordance with the Navy Act and to order the court-martial to assemble on board Indian Naval Ship (on shore at……) at……..on the…….day of…….or as soon afterwards as circumstances allow.

Given under my hand this……..day of……. in the year

Signature……..

To

…….

…….

FORM No.10

WARRANT ORDERING A COURT-MARTIAL

(To be used when a Court-Martial is ordered by the President or the Chief of the Naval Staff)

(See Regulation 159)

By

Whereas…….. of Indian Naval Ship…….. has transmitted to me a letter alleging the misconduct of (hereinafter referred to as the accused); and whereas I think fit that the accused shall be tried by court-martial, I do hereby in exercise of the powers conferred on me by sub-section (2) of section 97 of the Navy Act, 1957 order a court-martial to be held for the trial of the accused on the charges listed in the accompany charge-sheet and nominate you as President thereof.

You are to summon other officers to sit on the court-martial in accordance with the Navy Act and order the court-martial to assemble on board Indian Naval Ship……..(on shore at……..) at……on the day of…….or as soon afterwards as circumstances allow.

Given under my hand this day of…….. in the year

Signature……

To

…….

FORM No. 11

WARRANT BY CONVENING AUTHORITY APPOINTING TRIAL JUDGE ADVOCATE

(See Regulation 161) By

Whereas I have ordered……to preside over a court-martial on board Indian Naval Ship……(on shore at…….) at a.m. on the……day of ……. 19……..or as soon……afterwards as circumstances permit for the trial of of Indian Naval Ship……., I do hereby appoint you to officiate as Trial Judge Advocate for the purposes of that court-martial.

Given under my hand on board Indian Naval Ship……at…… This……..day of……19.

Signature……

To

……..

FORM No. 12
WARRANT APPOINTING PROSECUTOR

(See Regulation 163)

By----------
(Convening Authority)

WHEREAS I have ordered a Court-martial to be assembled On board I. N. S.

On shore at
On the----------day of ----------19---------,for the trial of----------Of Indian Naval Ship---------- I do hereby appoint you to act as Prosecutor on that occasion.

Given under my hand at----------the----------day of----------19----------.

Convening Authority.

To

FORM No. 13

WARRANT APPOINTING PROVOST MARSHAL

(See Regulation 164)

By

WHEREAS a court-martial has been ordered to assemble on board Indian Naval Ship……. (on shore at……..) at……. a.m. on the…….day of……..19……for the trial of Indian Naval Ship……I do hereby appoint you to officiate as Provost Marshal on the occasion and you are to take the said…….into your custody at…….(time) on the…….day of……19 and safely keep him until he shall be delivered in due course of law.

…… To

……

* Delete if there is no annexure(s)

FORM No.14

WARRANT APPOINTING OFFICER OF THE COURT (See Regulation 165)

By……

(Convening Authority)

WHEREAS A court-Martial has been ordered to assemble on board I.N.S…… on the ……day On shore at…….. Of……..19……,for the trial of……

(name of the accused) of

Indian Naval Ship……...

I do hereby appoint you to act as Officer of the Court on that occasion. You are perform the duties mentioned in regulation 166 of the Navy (Discipline and Miscellaneous Provisions) Regulation 1965, which is reproduced on the reverse, and such other duties as you may be directed to perform by the President of the Court-Martial or the Trial Judge Advocate.

Given under my hand this……..day of……19……..

(Convening Authority)

To

……

DUTIES OF THE OFFICER OF THE COURT

"166. Duties of the Officer of the Court.-The Officer of the Court shall perform the following duties;-

(a)He shall serve the accused with a notice of trial issued by the trial Judge advocate, and other papers and shall obtain his signature.

(b)He shall serve the prosecutor with the papers ordered to be delivered by the trial judge advocate.

(c)When so directed, he shall serve the summons issued by the trial judge advocate upon any witness.

(d)He shall be responsible for making due arrangements for the sitting of the court under the directions of the trial judge advocate and shall obtain from the proper source the furniture and fittings and supply stationery required for use of the court.

(e)He shall muster the witness outside the courtroom and as soon as the court is assembled, he shall report to the president that they are in attendance.

(f)When so directed by the President, he shall cause the accused to be brought in and to admit the prosecutor and audience.

(g)He shall ensure that no witness enters the court unless called to give evidence, except by the permission of the court.

(h)He shall ensure that each witness leaves the court as soon as he has been examined and is not allowed to communicate with those witnesses who have yet to give evidence.

(i)He shall ensure that no witness duly summoned leaves the vicinity of the court. (j)When the Court is cleared for deliberations, he shall ensure that no one is allowed to remain within the court's vicinity."

FORM No. 15

NOTICE OF TRIAL TO THE ACCUSED

(See Regulation 169)

Office of the Trial Judge Advocate

……

……....

…….……19……..

Orders having been given for a court-martial for your trial to be held on board (on shore at…….)……..at…….a.m. on…….the……..day of ……..19…… or as soon afterwards as circumstances allow, I transmit to you herewith for your information, copies of the charge-sheet, a list of the witnesses for the prosecution, the circumstantial letter including the annexure(s)* reporting the facts on which the charge-sheet is founded and a list of the exhibits which the prosecutor proposes to put up in evidence. A copy of the summary of the evidence in support of the prosecution is also enclosed but you should note that while this document summaries the most material points in the witnesses evidence, may it does not profess to contain all the details which the witness may give in evidence.

You are entitled but are not obliged to give evidence on your own behalf. If you wish to do so, you should make a request in writing at the appropriate time. If you do give evidence, you will be liable to be cross-examined by the prosecutor and examined by the court. If you do not wish to give evidence on oath, you may, without incurring liability to be cross-examined, make an unsworn statement as to the facts without going into the witness box.

If you will furnish me in writing with the full names and addresses of any witnesses, whom you may desire to call and whose attendance can reasonably be procured including witnesses as to character, they shall be duly summoned to attend on your behalf.

Should you wish any documents not in your possession which you consider to be material evidence in the case, to be produced at the trial you should send me full particulars so that the necessary arrangements can be made.

You are requested to inform me of the name of any officer or counsel whom you may have asked to assist you at the trial or say if you wish to have an officer assigned by the convening authority to assist you.

Your attention is drawn to regulation 172 of the Navy (Discipline and Miscellaneous Provisions) Regulations, 1965 setting forth the rights of the accused in the matter of preparation of defence.

**(If you wish to lay any certificate before the court they should be abstracted on the attached form and the original certificates and the abstract handed to me in court).

Signature……..

(Trial Judge Advocate)

To

……..

** Applicable to officers only.

FORM No. 16

NOTICE TO THE PROSECUTOR

(See Regulation 170)

I am to inform you that …….

(Convening Authority)

has ordered…….

(the full name and designation of the President of the Court-Martial) of Indian Naval Ship ……to assemble a Court-Martial at…….on……on……...board (time) (date) Indian Naval Ship……to try……

……..on shore at Indian Naval Ship…….on the charge preferred against him on the……

(date of the charge sheet)

(a)It is requested that certified copies of any entries against the Officer in the log, and of any other documents of the nature of definite censure by superior authority for a definite offence, may be forwarded to me, and that the Ship's Log and the original documents or true copies thereof duly certified by the Commanding Officer may be produced in the Court.

(b)It is requested that the……

(documents required if any)

And the accused's Service Certificates, may be produced in the Court.

Dated…… ……

(Trial Judge Advocate)

To

……..

……..

(a)To be used if the accused is an officer

(b)To be used if the accused in a sailor.

FORM No. 17

FORM FOR INTIMATING DEFENCE WITNESSES TO THE TRIAL JUDGE ADVOCATE BY THE ACCUSED

[See Regulation 178(2)]

I. N. S……..

Dated……19

I have received a copy of the charges against me, with the circumstantial letter dated……..a list of witnesses for the prosecution, and a summary of evidence in support of the charges.

I note that I can give evidence on my own behalf, but that in that event I am liable to cross-examination by the Prosecutor and examination by the Court.

……of I.N.S…… Will act as my defending officer/defence counsel.

I wish to call the following witnesses on my behalf: -

NAME (Christian and Surname in full)	RANK and Official Number.	SHIP

Signature……

Rank……..

O. No…… To

…….

The Trial Judge Advocate

FORM No. 18

ORDER OF THE COURT AND REPORT OF NAVIGATION DIRECTION AT TRIAL ON NAVIGATIONAL CHARGE

(See Regulation 183)

Trial by Court-Martial of ……..of……Indian Naval Ship

ORDER OF THE COURT

To

*……..of I. N. S……..

…….of I. N. S…….

You are handed herewith the following books, charts+ etc., in connection with the stranding/hazarding/loss of I. N. S. on the

(a)Ship's log
(b)Rough and fair engine room registers
(c)Control room log
(d)Last table of compass deviations
(e)Navigational data book
(f)Gyro Compass Log
(g)Captain's night order book
(h)Navigating Officer's night order book
(i)Navigating Officer's note book
(j)Navigating Officer's work book
(k)Navigating Officer's sight forms
(l)Wheel and engine order book
(m)Chart(s) and sailing directions by which ship was navigated.

2. You are to ascertain and report to the court-

(a) Whether the proper charts, sailing directions relevant hydrographic publications and all hydrographic notices bearing on the case had been supplied; if so, whether they had been used and whether the charts and publications used had been corrected by the latest received corrections thereto. You are to state whether the largest scale chart of the area was in use at the time of the occurrence.

(b) When and how the last reliable fix of the ship's position was obtained before the occurrence and whether the courses steered and the distances run through the water in the interval were accurately ascertained and correctly recorded in the ship's log.

(c) whether the regulations with regard to sounding were carefully observed.

(d) what degree of reliance can be placed on the deviation of the standard compass and on the accuracy of the gyro-compass; which compass was in use and whether the error (if any) of that compass was accurately ascertained and correctly applied.

3. You are to work up the ship's reckoning from the log, engine room registers, etc. from the time when her position was last accurately, ascertained (or from such a time and with such details as the court may require) to **_____ the result is to be delivered to the court, attested by your signatures and you will be sworn and be subject to cross-examination as to its accuracy. With your report you are to deliver to the court a copy of tracing *** of the chart by which the ship was navigated on which the positions of the ship so determined have been laid off and also the determined position when aground or in danger as noted in the log. The rate and direction of the current and of the tidal stream and the state of the tide when ship**_____are to be ascertained and reported.

4. Your report to the court is to be made on the form attached.

Given under my hand at……. This……day of…….19

(President of the Court) (This order is to be read to the officers in court and then handed over to them for compliance. They are to return it to the court with their report and it is then to be inserted in its proper place in the record of proceedings)

NOTES:- * Insert name(s) officer(s) directed in accordance with regulation 183

** Necessary details to be inserted by the President

***This should wherever possible be done on tracing paper, which can be placed over the actual chart used.

Items not applicable to be deleted by the President.

REPORT TO THE COURT BY THE NAVIGATION DIRECTION OFFICERS

Questions Answers

_____ 1. Were the proper charts, sailing directions, relevant hydrographic publications and all hydrographic notices bearing on the case supplied to the ship?

2. Have you examined the charts and publications Stated to have been in use at the time of the Occurrence?

3. Were such charts and publications amended by the latest received corrections?

4. Was the largest scale chart of the are In use at the time of the occurrence and does it appear that full use had been made of the appropriate publications?

5. When and how was the last reliable fix of the ship's position obtained before the occurrence?

6. Were the courses steered and the distances run through the water between the time of the last fix and that of the occurrence accurately ascertained and correctly recorded in the log?

7. Were the regulations as to sounding carefully observed?

8. Were the regulations as to ascertaining and recording the errors of the compass observed?

9. Have you inspected the gyrocompass log or the navigational data book and latest deviation table, in order to ascertain the degree of reliance which can be placed on the compass correction used?

10. Do you consider such degree of reliance satisfactory? 11. Which was in use, the gyrocompass or magnetic compass 12. Was the error of that compass (if any) correctly applied?

13. Have you worked up and placed on the chart/tracing the ship's dead reckoning position computed from the time of the last reliable fix of her position?

14. Have you worked up and placed on the cahrt/tracing the ship's estimated position computed from the time of the last reliable fix of her position?

15. Was any allowance for the effect of the wind and sea made in computing your estimated position?

16. In making your computations have you made use of any data which was not available in the ship?

17. What were the rates and directions of the trial streams or currents:
(a) actually experienced, i.e., the difference between D.R. and actual position at the time of the occurrence?
(b) as estimated by you?
(c) as actually allowed for in the ship?

18. What was the state of the tide when the ship?

Date…….. ……..

(Signature and Rank of Officers)

(This report is to be read to the court by the trial judge advocate. If the court concurs, the report is to be endorsed by the president as approved, If the court does not concur, a statement signed by the president is to be added showing in what respects and for what reasons the court dissents from the report.

The report together with any statement by the court is then to be inserted in its proper place in the record of proceedings).

FORM No. 19

MINUTES OF PROCEEDINGS

(See Regulation 190)

(Note: The minutes should be recorded in the following form as far as possible with such variations as are necessitated by the circumstances of each case.) Minutes of proceedings at a court-martial held on board I. N. S.---------- on shore at----------) at----------on----------day of----------or the trial of----------of I.N.S.----------

Officers summoned to sit on court-martial:-

Captain A. B. C., I. N. S. " " " President
Commander D.E.F., I.N.S " " " Member
Commander G.H.I., I.N.S. " " " Member
Commander J.K.L., I.N.S. " " " Member
Lt. Cdr. M.N.O., I. N. S " " " Member
Lt. Cdr. P. Q. R., I. N. S. " " Spare member
Lt. Cdr. S. T. U., I. N. S. " " Spare Member

The court as finally constituted:-

Captain A.B.C., I. N. S. " " " President
Commander, D.E.F., I. N. S. " " " Member
Lieut. Cdr. P. Q. R., I. N. S. " " "
Member Mr
……, Trial Judge Advocate
Officer of the court…….

The President declared the court open at 0902.

The accused…….of I. N. S……..was brought in by…….Provost Marshal.

Mr……..Advocate appeared in court to assist the accused.

The Prosecutor, Commander ……of I. N. S…….. and the audience admitted.

The trial judge advocate read out the warrant for assembling the court and the names officers exempted from attending under sub-section (20)of section 97 of the Navy Act, 1957 together with the reasons for such exemption. (here insert the court-martial warrant and the list of officers forwarded by the convening authority to the President) (From).

The trial Judge Advocate read out the names of the officers composing the court.

The Prosecutor on being asked whether he objected to any member of the court stated that he had no objection.

The accused on being asked whether he objected to any member of the court stated that he objected to Lieutenant Commander, M. N. O. on the ground that he had previously sat on a Board of Inquiry held to investigate the incident from which the court-martial had arisen. He also stated that he had no objection to the other member of the court.

The court was cleared to consider the objection.

On re-opening the trial Judge Advocate announced that the court has upheld the objection. Lieutenant-Commander M.N.O. withdrew and Lieutenant –Commander P.Q.R. took his seat as member of the court.

The Prosecutor on being asked whether he objected to court as now constituted stated that he had no objection.

The accused on being asked whether he had any further objection respecting the constitution of the court stated that he had no objection.

The President and members of the court and the trial Judge Advocate were then duly sworn.

The accused on being asked whether he objected to Mr……..as Shorthand writer stated that he had no objection……was duly sworn to act as Shorthand Writer.

The trial Judge Advocate read the first charge to the accused and asked him whether he pleaded guilty or not guilty.

The accused pleaded guilty.

The trial Judge Advocate then explains to the accused the precise meaning of the charge in the following words and pointed out the difference in procedure which would result from the plea of guilty.

……

…….

The trial Judge Advocate considered that the accused should not plead guilty and he advised him to withdraw his plea. The accused withdrew his plea.

The Prosecutor opened his case by reading the circumstantial letter and addressed the court further as follows (here insert the circumstantial letter and a record of the Prosecutor's opening speech); -

(NOTE:- The evidence of each witness should commence on a fresh page.
The questions and answers must be numbered serially throughout.)

Lieutenant of I. N. S. was Called, sworn and examined by the prosecutor.

Examination-in-Chief

1. Q. Are you Lieutenant of I. N. S.?
   A. Yes.
2. Q. What are your duties in the ship?
   A. I am the Supply Officer
3. Q. Do you know the accused by sight?
   A. Yes. He is sitting over there (witness here pointed at the accused).

4. Q. Have you examined the books of your ship? Do you find that the accused is borne on these books

   A. Yes.

5 Q. Were you on the quarterdeck of I. N. S. about 0900-0n Ist January 19 ?

   A I was

6. Q. Please tell the court what happened about that time?

   A. I was standing at the starboard side on the quarter deck. Then Petty Officer A and the Accused came on board I thought that he……..

By trial Judge Advocate

7 Q. You must not tell the court what you thought. Please try to confine your evidence to describing what actually happened.

Witness : The accused went up to the officer of the Watch. 8.

Q.

A.

9. Q.

A.

Cross-examined by Defence counsel 10.

Q.

A.

11. Q

Re-examined by prosecutor 12.

Q.

A.

13. Q.

A.

Examined by Court 14.

Q.

A.

15. Q.

A.

Examined by trial Judge Advocate 16.

Q.

A.

17. Q.

A.

Witness withdrew.

Second witness:- Lieutenant called, sworn and examined by the Prosecutor.

18. Q. Are you Lieutenant of I. N. S. ?

A. Yes.

19. Q. What were your duties on day of 19 ?

A. I was Officer of the Watch.

20. Q. Do you recognize the accused?

A. Yes.

21. Q. Was he brought before you on ?

A. Yes.

22. Q. Why was he brought before you?

A. It was reported that he struck Petty Officer.

23. Q. In the course of your investigation did you question the accused?

A. Yes.

24.. Q. Before questioning him, did you give him any caution?

A. Yes. I warned him as follows:-

……..

……

25. Q. What was his reply?

A.The Defence counsel objected to this question as being inadmissible. The trial judge advocate considered it desirable that arguments and evidence as to the admissibility of the evidnce sought to be adduced by the prosecutor should not be heard in the presence of the court. He thereupon so advised the President of the Court.

The President:- I consider that it would be convenient for the court to retire:

The President and members of the court then left the court room.

The counsel for the accused stated that the question asked was for the purpose of eliciting the alleged confession of the accused. He objected to the confession being admired, as it was not free and voluntary. The trial judge advocate informed the prosecutor that he must adduce evidence in the first instance to show that the statement was free and voluntary.

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Examination by the Prosecutor

26. Q.

A.

Cross-examination by defence counsel

26. Q.

A.

Examination by trial judge advocate 27.

Q.

A.

The trial judge advocate held that the confession was not admissible.

The court re-assembled.

By trial Judge Advocate : I have disallowed he question. Prosecutor will continue his examination-in-Chief.

Examination by Prosecutor 29.

Q.

A.

Cross-examined by defence counsel 30.

Q.

A.

Re-examined by Prosecutor

31. Q.

A.

Witness withdrew.

Examined by trial judge advocate 32.

Q.

A.

The evidence of other witnesses is to be recorded in similar form.

Prosecution closes its case.

The trial judge advocate to the accused

You may give evidence as witness on you own behalf. Should you desire to do so, your should make a request in writing to do so but you must remember that you will thereby render yourself liable to cross-examination. If you do not wish to give evidence, you may make a statement as to the facts of the case.

The defence counsel submitted that the accused wished to give evidence on oath and he accordingly submitted an application duly signed by him and the accused. (Here insert the application)

The accused-sworn and examined by defence counsel

Examination – in - Chief

34. Q.

A.

Cross-examined by Prosecutor

35. Q.

A.

Re-examined by defence counsel

36. Q.

A.

Examined by court 37.

Q.

A.

Examined by trial judge advocate

The accused had no other witness (If the accused has witnesses, they are to be examined here. Thereafter, the accused friend must sum up the case and prosecutor must reply.)

The Prosecutor summed up the case as follows:-

……

The Defence Counsel replied as follows.

…….. The trial judge advocate proceeded to sum up the case as follows:-

…….

The court cleared for the finding

The court re-assembled at at on 19

Trial judge advocate to the court:

38. Q. Mr. President, Sir, what is the finding of the court on the first charge.

39. Q. What is the finding of the court on the second charge?
A.

The trial judge advocate then drew up the finding.

The defence counsel made a submission in mitigation of punishment.

The defence counsel called as witness to give evidence of general character.

Q.

A.

First examined by prosecutor.
Re-examined by accused
Examination by defence counsel
Examination by court
Examination by trial judge advocate
The trial judge advocate read the entries against the accused in the Conduct On re-opening the President directed the trial judge advocate to pronounce the sentence.

The trial judge advocate pronounced the sentence as drawn up by the court
The President ordered the accused to be removed and dissolved the court.

FORM No.20

ABSTRACT OF

CERTIFICATES [See regulation 192(3)]

ABSTRACT of the Certificates of Of Indian Naval Ship…….

Ship	Rank	Period served		During which period he has conducted himself	Signed by
		From	To		

Trial Judge Advocate.

Form No.21

ORDER FOR BOARD OF INQUIRY

(See regulation 200)

From }
At }
Date }
To }

ORDER FOR BOARD OF INQUIRY

You are hereby required to assemble in …… Ar……on……the…… Day of……19……., as a board of inquiry whereon …… ……is to be the President and to hold a full and careful investigation into the circumstances of …….

2. Your report is to be accompanied by the minutes are to be numbered in one series throughout, and is to contain an expression of your opinion on the merits of the case as disclosed by the evidence, it is also to state fully to whom, if to any person, blame is attributable, and to what extent.

3. The questions in the minutes are to be numbered in one series throughout, and the minutes as well as the report, are to be signed by the president and members of the board. The name of the witness under examination is to be noted at the head of each page……..copies of the report and minutes are to be furnished.

4. Before submitting the minutes and report, you are to see that all papers (or copies of them, if originals are not available) referred to in the proceedings of the board accompany the original and all copies of the minutes, and that the regulations regarding the preparation and submission of the minutes have been fully complied with.

5. Any other matter which arises from the proceedings and which the board considers should be brought to the notice of the convening officer is to be made the subject of a separate report.

6. You are to be guided by Chapter VII of the Navy (Discipline and Miscellaneous Provisions) Regulations, 1964 and Navy Orders issued on the subject from time to time.

7……..is to arrange for the attendance of such witness as may be required to be examined by the board.

8……is to arrange for the presence during the inquiry of a confidential stenographer and for provision of the necessary stationery.

9. All relevant papers are herewith handed to the president of the board who is to return them with the minutes in due course.

……

Signature of convening Officer.

FORM No. 22

FORM FOR FORWARDING MINUTES OF PROCEEDING OF BOARD OF INQUIRY, DISCIPLINARY COURT ETC.

(See Regulation 208)

PROCEEDINGS of a(a)……
Assembled at…… On the…….....
By order of……For the purpose of (b)…….....
…….....
……
……

Presiding Officer:

Members:

1……..

2……..

3…… Sir,

I have the honour to submit the findings, recommendation and the minutes of proceedings of the above mentioned(a)……..
…… together with various exhibits. The convening order No……
dated…….is also enclosed herewith.

Signature……
Rank……..

To
……..

PART II

REMARKS OF THE ADMINISTRATIVE AUTHORITY ON THE REFORT OF

(a)……..

Signature……

Dated.....
To

Rank……
Appointment……..

The Chief of the Naval Staff.

……

PART III

ORDER OF THE CHIEF OF THE NAVAL STAFF

Signature……

Dated…… Rank……

form is used for forwarding the proceedings of board of inquiry, disciplinary court, or any other such body.)

(b) Here state the purpose as contained in the convening order.

FORM No. 23

FORM FOR SUMMONING WITNESSES REQUIRED TO GIVE EVIDENCE BEFORE A BOARD OF INQUIRY

[See regulations 204 and 233 and Section 134(2)]

To

WHERE AS…….has ordered a board of inquiry to assemble at……at…….. on …….day of……19……., and whereas it appears your evidence is likely to be material (and that you have in your possession and control certain documents which are listed on the reverse and which are also material) for the said inquiry, I do hereby, by virtue of the power given to me under Section 134(2) of the Navy Act read with regulation 233 of the "Navy (Discipline and Miscellaneous Provisions) Regulations 1964," summon and require you to appear before the said board on the …….day of……19…….at……
(and also to produce the said documents) and so to attend from day to day until you shall be duly discharged; wherein you fail at your peril.

Given under my hand at……this……day of……

Signature……
Rank……
Appointment……

FORM No. 24

SUMMONS FOR WITNESSES REQUIRED TO GIVE EVIDENCE BEFORE OFFICER PREPARING A SUMMARY OF EVIDENCE.

[See section 134(2) and Regulation 233] To

…….

Whereas a charge of having committed an offence triable by court-martial has been preferred against…….

And whereas a summary of evidence has been directed to be taken by 134 of the Navy Act, 1957 require you to attend before the said ……and so to attend from time to time as directed by him until you shall be duly discharged; wherein you shall fail at your peril.

Given under my hand this day of 19.

(Signature)…….
Senior Officer at the Station.

FORM No. 25

SUMMONS FOR WITNWSS REQUIRED TO GIVE EVIDENCE BEFORE A COMMANDING OFFICER

[See Section 134(2) and Regulation 233]

To

……..

Whereas the Commanding Officer, I. N. S…… is investigating a complaint against……... (rank), Personal Number…….and it appears that you are likely, to give material evidence in the matter, I do hereby, in exercise of the powers conferred on me by section 134 of the Navy Act, 1957, require you to attend before the Commanding Officer, I. N. S. …… on……. day of……., 19……., at……forenoon to testify what you know concerning the matter and not to depart thence without the leave of the Commanding Officer; wherein you shall fail at your peril.

Given under my hand this day of 19

(Signature)……
Judge Advocate General of the Navy/
Senior Officer at the Station.

Form No. 26

SUMMONS FOR WITNESSES REQUIRED TO GIVE EVIDENCE BEFORE A COURT-MARTIAL

(See regulation 233)

(Witnesses subject to Naval Law)

To

…….of I. N. S.

…….of I. N. S.

..…… of I. N. S.

…… of I N. S.

A court-martial having been summoned to assemble on board (on shore at…….)……..at on the day of 19 , for the trial of of Indian Naval Ship. You and each of you are hereby required to attend at the sitting of the court on the day at the time above mentioned.

It is requested that this document may be signed by each witness and returned to me.

Given under my hand at this day of 19.

Signature……..

(Trial Judge Advocate)

(Note:- The names of any number of witnesses belonging to the same ship may be included in a summons in the above form.)

224 Naval-19

FORM No. 27

SUMMONS FOR WITNESSES REQUIRED TO GIVE EVIDENCE BEFORE A COURT-MARTIAL

(See Regulation 223)

(Witnesses not subject to Naval Law) To

…….

Whereas a court-martial has been ordered to assemble on board Indian Naval Ship……..(on shore at……) at……..on the ……..day of ……..19……For the trial of…….of Indian Naval Ship……on charge of And where as it has been stated to me that your evidence will be material (and that you have in your possession and control certain documents which are also material for the trial and determination of the matter to be brought before the court), I do hereby, by virtue of the power given to me by the Navy Act, 1957 summon and require you to attend at the sitting of the said court on the …….day of…….19……..at……..O' clock (and to bring with you the documents hereinafter mentioned namely,……..) and so to attend from day to day until you shall be duly discharged; and you are hereby required to obey this summons on pain of the penalties declared by the said Act.

Given under my hand at……this…….day of…….

Signature……
(Trial Judge Advocate).

FORM No. 28

WARRANT FOR ARREST

(See Section 83)

To

……

and all others whom he may call upon to assist
him in the execution of this warrant.

I,……..,being the officer in command of Indian Naval Ship"……" Do hereby suthorise you, and all others aforesaid, to arrest

…….} ……
…….} belonging to the said ……
…….}Ship, for ……

Such being an offence against the Navy Act, and you are to bring the said.

…….. on board the said Ship or some other Indian Naval Ships, to answer for the said offence, and to be further dealt with according to Law.

Given under my hand this…….day of…….19……..

Signature……

Designation……

To be dispatched when required.

DESCRIPTION OF DESERTERS OR ABSENTEES

Name……..
Offical Number…….
Rank…… Date of birth…….
Date of Desertion or absence…….
Usual place of residence…….

Description-

Height……
Complexion……
Hair……
Eyes……

Marks on person

Warrant for apprehension issued
To the Police
at……
Remarks, including any indication
As to probable whereabouts of
The absentee.

I.N. S.

Commanding Officer

To be detached when not required.

FORM No. 29

WARRANT OF INTERIM COMMITMENT UNTIL EXECUTION OF THE SENTENCE OF DEATH

(See section 148)

To

The Superintendent (Keeper) of the Jail

_____at_____

The Captain, Naval Detention Quarters.

WHEREAS at a court-martial held on……day of…….19……

……Name……..Ex-Rank or rate ……Ex-official Number (if any)….of Indian Naval Ship……..was dluly convicted of the offences under ……of the Navy Act, 1957 (Indian Penal Code) and sentenced to suffer death subject to the confirmation of the said sentence by the Central Government; this is to authorize and require you, the said ……..……..into your custody in the said jail/detention quarters together with this warrant and him to keep until you shall receive the further warrant or order of the Chief of the Naval Staff*/Convening Authority for carrying into effect the said sentence or otherwise.

Given under my hand and the seal of my office, this…….day of……

…….19…….

Seal Signature……..

Designation…… Delete as necessary

Form No.30

WARRANT FOR EXECUTION OF A SENTENCE OF DEATH

(See section 149)

To

The Superintendant of Jail……

WHEREAS Name of the Prisoner…….(a) Ex-Rank…….…….(a) Ex-Official Number (if any)…… Of Indian Naval Ship……..was tried by court-martial on……. And sentenced to death and ha been by warrant dated……..committed

To your custody;

AND WHEREAS the order of the Central Government confirming the said sentence has been received which order is annexed hereto, this is to authorize and require you the said……to carry the said sentence into execution by causing the said…….to be hanged by the neck until he be dead at (b)……..(a) or be shot to death at (b) ……. And to return this warrant to me with an endorsement that the sentence has been executed.

Given under my hand and the seal of my office this……day of……..19……..

Seal Signature…….

Designation……..

(a)Delete as necessary

(b)Time, date and place of execution.

FORM No. 31

ORDER FOR TRANSFER OF PRISONER PERSON UNDER DETENTION

(See section 154)

By……

WHEREAS at a court-martial held on board Indian Naval Ship*……..at…….on

On shore at The ……day of……19……..,

Name……..*Ex-Rank……

*Ex-Official Number (if any)……of Indian Naval Ship……..was found guilty of offences under section/s……, and sentenced to be……

AND WHEREAS I deem it expedient that the said …….who is now confined under the said sentence in the …….at……shall be delivered over to naval custody for the purpose of attending a court-martial to be held at……..on the ……..……day of……19.

I do hereby require and direct you to deliver over the said……..To naval custody for the purpose aforesaid.

Dated on board Indian Naval Ship…….at……this……day of……19,

Signature……

Designation……..

To

……..

……..

*Delete necessary

FORM No.32.

ORDER FOR RETRANSFER OF PRISONER OR PERSON UNDER DETENTION

(See section 155)

By……

WHEREAS by an order dated……Name……
……Ex-Rank…….*Ex-Official Number(if any)……of……Was ordered to be delivered into naval custody and has been in naval custody for the period ……. Days and whereas he is no longer to be detained in such custody, I do hereby require and direct you to receive him in your custody for undergoing the remainder of the punishment until he shall be delivered in due course of law.

Signature……

Dated……..

To

Designation……

……..

……

*Delete as necessary.

FORM No. 33

WARRANT FOR REMOVAL OF INSANE PERSONS

(See section 156)

To

…….

WHEREAS

(Name)……

Ex-Rank……Ex-Official Number (if any)…….Is undergoing imprisonment*/detention under the Navy Act, 1957 and has become insane in witness whereof a certificate has been given by…….the Central Government hereby directs that the said…….be removed to……for the unexpired term of his imprisonment or detention or until further orders are given thereon by the Central Government.

Seal

Signature……

Dated……

Designation……

*Delete as necessary.

FORM No. 34

FORM FOR RETRANSFER OF THE PRISONER TO THE JAIL OR DETENTION QUARTERS

(See section 156)

To

Keeper of (a)……

At…….

WHEREAS……..(Name)……(b) Ex-Rank…….(b) Ex-Official Number (if any) was transferred to (a)……..by order dated……

AND WHEREAS in accordance with the certificate issued by……he has been certified to be of sound mind, the Central Government hereby orders the said…….to be removed to ©…….

To undergo the remainder of his punishment and this warrant shall be sufficient authority for keeping the said…….in the said jail(b)/detention quarters until he is delivered in due course of law.

Seal

Signature……..

Designation……..

Dated…….

(a) The name and place of the Asylum.

(b) Delete as necessary

(c) Full description of the Jail or Detention Quarters.

APPENDIX II

I

CRIMINAL PROSECUTION OF AN OFFENDER IN CIVIL COURT IN CASES IN WHICH THE INDIAN NAVY IS DIRECTLY INTERESTE

&

II

DEFENCE OF SAILORS CHARGED WITH CRIMINAL OFFENCES

(151)

APPENDIX II

(See Regulation 126)

I

CRIMINAL PROSECUTION OF AN OFFENDER IN CIVIL COURT IN CASES IN WHICH THE INDIAN NAVY IS DIRECTLY INTERESTED

In cases in which the Indian Navy is directly interested financially or otherwise in the Prosecution of an offender in a Civil Court (whether subject to the Navy Act, 1957 or not), the following procedure shall be followed:-

(a)either the Solicitor of the State Government where the accused is prosecuted should be employed, or when the prosecution is directly controlled from Naval Headquarters, the Solicitor to the Government of India, who will if necessary, take further advice from the Advocate General, or the Government Advocate, according to the State in which the prosecution is being conducted; and

(b)no prosecutions shall be instituted without adequate legal advice being taken in writing, and that no prosecution shall be instituted or withdrawn in any manner contrary to such legal advice without reference to the Central Government.

2. In each cases, the prosecution will ordinarily be conducted by the Public Prosecutor, the prosecuting staff of the Police Department, the Government Pleader or other Legal Officer of the State Government concerned in which case the expenses of the prosecution will be defrayed by the civil authority in the ordinary course.

3. When, however, the employment of a Government Pleader or other Legal Officer of the State Government concerned is not feasible owing to the nature of the case, or for other reason, and the Government Law Officer, who is consulted, advises the employment of special counsel, the fees, traveling and detention allowances of the latter may, on the advice of the Government Law Officer concerned, be sanctioned by the Chief of The Naval Staff who formally engages counsel. The Chief of the Naval Staff is also empowered to meet expenditure on court fees, process fees, and the like, on a requisition to be made by the Advocate General, Government Pleader, Government Solicitor or other law officer or counsel concerned.

4. The amount of fees agreed upon shall immediately be reported to the Central Government together with an estimate of the total cost involved. On conclusion of the case, a report of the result and a complete statement of costs shall be forwarded to the Central Government.

II

DEFENCE OF SAILORS CHARGED WITH CRIMINAL OFFENCES

5. The following are the rules for the defence of sailors charged with criminal offences, and prosecuted by Government in Civil Courts:-

(a) When sailors are to be tried by a Civil Court upon any criminal charge, the Chief of the Naval Staff or the Administrative Authority shall consult the District

Magistrate and arrange with him for the selection and remuneration of a pleader or advocate as the importance and necessities of the case may require.

"(b) Except in cases in which the Central Government are interested, the maximum amount that may be paid to the pleader or the advocate shall not exceed the amount payable to the Government/Pleader or advocate as fixed by the Central Government;"

(c) The Chief of the Naval Staff or the Administrative Authority as the case may be, shall appoint a pleader or advocate only in cases where he thinks it desirable. The amount to be paid to counsel shall definitely be settled beforehand.

Subject to the above maxim. If suitable counsel cannot be obtained for the remuneration admissible under these rules, the case shall be reported to the Central Government with a view to their orders being obtained thereon.

(d) In High Courts in which counsel may not plead unless instructed by a solicitor, a solicitor may be employed and his bill of costs, which should include counsel's fees

[subject to the restrictions laid down in clause (b) above] shall be submitted to the Legal Remembrancer of the State Government and his certificate obtained that the amount of the bill is reasonable before it is submitted for the orders of the Government.

(e) When counsel is rightly provided for the defence of a sailor at the first trial in a civil court, counsel can also be provided when considered necessary on appeal, subject to the limitations laid down in clauses (b) and (c) above.

APPENDIX III

A NOTE ON CEREMONIAL IN CONNECTION WITH A COURT-MARTIAL

(See Regulation 175)

The ceremonial which accompanies the assembling of a court-martial and during its proceedings is not, strictly speaking, a part of the actual trial and a deviation there from shall not affect the validity of the proceedings. All persons concerned with naval court-martial shall, however, strive to maintain a tradition which has for its object the maintenance of the dignity of the court and the retention of the supremacy of the rule of law.

2. Preliminary Ceremonial – (a) The National Flag shall be hoisted whenever a court-martial is sitting or is about to sit. It shall be worn at the peak or at the yardarm as appropriate.

(b) on the day on which a court-martial is to sit a gun shall be fired when colours are hoisted, or at the time when the signal is made, if the court is ordered to sit immediately

(c) The National Flag shall be dipped between each separate court.

(d)If the court sits for more than one day, the National Flag shall be hoisted and a gun fired each day when colours are hoisted.

(e)The National Flag shall be hauled down when the court adjourns for the day.

(f)Instructions for firing the court-martial gun shall be issued by the convening authority. It shall normally be fired by the ship in which the court-martial is to be held, but if this is not practicable for any reason, the gun may be fired by any ship or shore battery in the vicinity.

(g) Captain and Commanders while attending as members of a court-martial, shall be received by a petty officer's guard, but such guard shall present arms only to the president of the court. Members below the rank of Commander shall not be received by a guard.

(h) Instructions for provision of guard when not paraded by the ship in which the court is being held, shall be issued by the convening authority.

(i) Between hours of colours and sun-set the side shall be piped to the members of Court-Martial proceedi ng to attend or returning from the court, while coming on board or leaving any of the Indian Naval Ships.

(j) Officers attending as members of court-martial shall ensure that they arrive before the president of the court in order that they may be present to receive him on his arrival.

(k) The trial judge advocate shall receive the president at the entrance of the court room and then introduce the other members of the court to him.

3. (a) The president and members of the court shall assemble and take their seats while the spare members shall stand at one end of the court table.

(b)The members shall sit in order of seniority, the officer next senior to the president sitting on his right, the next senior on his left and so on.

(c)Members of the court shall assemble with their caps on and shall not remove them until the president is about to be sworn. All Service personnel present in the court shall follow the motions of the court in the matter of wearing and removing caps. Officers under instruction shall be admitted when the court assembles.

(d)The trial judge advocate shall sit on a table placed on the left hand of the court table but on the same level with the court where there is a raised platform.

(e)Facing the court table, two tables shall be placed, one for the accused and the defending officer or counsel and other for the prosecutor. The accused's table may conveniently be on the left hand side of the president and the prosecutor's table on the right hand side. The witness box may be placed on the right hand side of the court table.

(f)The Short-hand writer shall sit immediately below the court where there is platform for the court to sit, otherwise in a place near the trial judge advocate.

(g)A bell or a buzzer may be made available to enable the president or the trial judge advocate to summon the officer of the court.

4. The officer of the court shall report to the president whether all witnesses are in attendance. The president, when he is ready to declare the court open, may summon the officer of the court and ask for this report.

5. (a) The president shall declare the court open and direct that the accused be brought in. The accused shall be brought in by the provost marshal.

(b) The provost marshal shall carry a drawn sword while escorting the accused in and out of the court. He shall, however, "return" the sword when the accused takes his seat. If the accused himself gives evidence, the Provost marshal shall accompany him to the witness-stand and stand at attention behind him while he gives his evidence. If this is likely to be protracted, the president may allow the provost marshal to be seated in close proximity to the accused in which case he may "return" the sword while he is sitting. The provost marshal shall generally

follow the movements of the accused in the matter of standing or sitting and taking off or wearing his cap.

NOTE:- The provost marshal cannot take off his cap when he has a drawn sword.

(c) The accused, if he wears a cap, shall remove it when the president is about to take the oath. He shall remain standing until the president gives him permission to sit. This shall usually be done after the plea, or after a plea in bar of trial, if any.

(d) If the accused is an officer and wears a sword, his sword in his scabbard shall be laid on the table opposite to the president so that neither the hilt not the point is towards the accused.

(e) The officer of the court shall follow the accused in the court and shall ask him for his sword and place it on the court table.

6. (a) The defending officer or the counsel for the accused shall follow the accused in the court. The trial judge advocate shall announce his name to the court.

(b)The defending officer or the counsel for the motions of the court in the matter of wearing his cap. On entering the court he shall salute the president and may then take his seat.

(c) If the accused is defended by a counsel, he shall wear his robes. On entering the court he shall bow to the president and then take his seat.

7. The prosecutor and his assistant, if any, and the audience shall then be admitted. If he is a Service Officer, the prosecutor shall salute the court and take his seat. If he is a counsel, he shall bow to the president and then take his seat.

8. (a) The trial judge advocate shall read from his seat the warrant for assembling the court.

(c)The president to whom the warrant has been issued by the convening authority shall bring this document to the trial. The trail judge advocate may obtain from the president the original copy thereof before the commencement of the court.

9. The trial judge advocate shall then read the names of the officers available to form the court and shall ask the prosecutor and then the defence whether they object to anyone of them.

The names of the spare members shall not be read. Objections, if any, shall be disposed of in accordance with the provisions of section 102 of the Navy Act

.

10. After the objections, if any have been duly disposed of, the trial judge advocate shall announce: “The court has been duly constituted. Gentlemen, off caps, if you please.”

11. (a) The trial judge advocate shall then administer oath or affirmation to the president and the members.

(b) When the oath is being administered, the president or the member concerned and the trial judge advocate shall stand in their respective places.

12. (a) The president shall then administer oath or affirmation to the trial judge advocate.

(b)In administering the oath, the president and the trial judge advocate shall both stand at their respective places. It will perhaps be more convenient for the president to request the trial judge advocate to make his oath or affirmation.

13. The trial judge advocate shall then administer oath any officer under instruction. 14. The trial judge advocate shall ask the accused whether he objects to the short-hand writer or other person employed to record the proceedings, and if there is no objection, he shall administer to him the prescribed oath or affirmation.

15. (a) The trial shall then proceed in accordance with the normal procedure, the prosecution and the defence presenting their cases respectively through the witnesses called by them.

(b) Whenever in the course of a trial it appears desirable to the trial judge advocae 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 in accordance with section 114(2) of the Navy Act.

(c) Since, it may not normally be possible to find another suitable place with necessary furniture, fittings and facilities for the trial judge advocate, the accused, the defending officer or counsel, the prosecutor and his assistant, the stenographer, witnesses and audience, it may be desirable and convenient for the court to retire to an appropriate room to be kept ready for the purpose. The trial judge advocate should settle this before hand with the president of the court-martial.

(d)Whenever the court has to retire and under these circumstances all present in the court room shall stand in their places as the members of the court file out of the court room for going to the retiring room.

(e)After the necessary arguments have been heard and the point at issue decided, the trial judge advocate shall inform the court through the officer of the court.

Members of the court shall then come in and resume there seats. All present in the court shall stand in their seats only after all members of the court have resumed their seats and have taken off their caps.

(f)The trial shall then proceed in the normal manner.

(g)After the summing up by the defence, the prosecution and the trial judge advocate, the court shall be cleared to consider the finding. The trial judge advocate, the officer under instruction and the stenographer shall also withdraw from the court.

16. Then the court has considered the finding, the president shall inform the officer of the court that the court intends to re-assemble. There upon the trial judge advocate, the prosecutor,

the defence and the audience shall be admitted. If an accused officer has been found guilty on any charges(s), his sword shall, before the court is reopened, be so laid that the point is towards the accused; conversely if he has been found not guilty on all charges, the hilt should point towards him. See paragraph 5(d)

17. (a) The court shall assemble with caps on.

(b) After the court has re-assembled, the trial judge advocate shall ascertain from the president the findings of the court as follows:-

"Mr. President, as to the first charge, what is the finding of the court?"

(c) The trial judge advocate shall proceed in this manner until he has obtained the verdict on all charges.

(d) The trial judge advocate shall thereupon draw up the findings and submit the same for signature of the members by way of attestation starting with the junior-most member. The finding shall be counter-signed by the trial judge advocate.

(e) The trial judge advocate shall then announce the finding in the Court.

18. (a) If the accused is found guilty on any charge, the court shall proceed to consider the question of awarding punishment. The trial judge advocate shall announce.

"Gentlemen, off caps, if you please".

(b) After hearing the trial judge advocate, the prosecutor and the defence in this respect, the court shall then close to consider the sentence.

(c) 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.

(d) When the court has decided on the sentence the trial judge advocate shall draw up the sentence, which is to be signed by every member of the court notwithstanding any difference of opinion that there may have been among the members. The sentence shall be counter-signed by the trial judge advocate.

19. (a) The court shall then re-assemble, the accused shall be brought in and the defending officer, the prosecutor and audience and witnesses admitted. The trial judge advocate shall then announce the sentence.

(b) The court shall assemble for this purpose with their caps on.

20. After the sentence has been announced, the president shall direct that the accused be removed and declare the court to be dissolved and the National Flag to be hauled down.

21. The president shall wait on the convening authority or the senior officer present with the letter reporting the finding and the sentence.

APPENDIX - IV

PERSON SUBJECT TO THE NAVY ACT CHARGED BEFORE A MAGISTRATE WITH OFFENCES TRIABLE BY COURT – MARTIAL

(See Regulation 114-A)

"Government of India, Ministry of Home Affairs Notification No. SO-488 dated the 9th February, 1978. Procedure in cases where a person subject to Military, Naval or Air Force Law is brought before a Magistrate charged with an offence for which he is liable to be tried by a Court-Martial."

SO – 488:- In exercise of the powers conferred by sub-section (1) of section 475 of the Code of Criminal Procedure, 1973 (2 of 1974), and in supersession of the Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Rules, 1952, the Central Government hereby makes the following rules for the trial of the persons subject to Military, Naval, Air Force laws or Coast Guard law or any other law relating to the Armed Forces of the Union by a court to which the said Code applies, or by a Court-Martial, namely:-

1. These rules may be called the Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Rules 1978.

2. In these rules unless the context otherwise requires.

(a) Commanding Officer

(i) in relation to a person subject to Military law, means the officer Commanding the Unit to which such person belongs or is attached;

(ii) in relation to a person subject to Naval Law, means the Commanding Officer of the Ship or Naval establishment or Unit to which such person for the time being belongs as is attached; and

(iii) in relation to a person subject to Air Force Law, means the officer for the time being in Command of the Unit to which such person belongs or is attached;

(iv) in relation to a person subject to the Coast Guard law, means the Commanding Officer of the Coast Guard ship or establishment or Unit to which such person belongs or is attached, and

(b) "Competent Air Force Authority" means the Chief of the Air Staff, the Air or other officer Commanding any Command, Group, Wing or Station in which the accused person is serving in a field area, the officer Commanding the forces or the Air Forces in the field;

(c) "Competent Military Authority" means the Chief of the Army Staff or Officer Commanding the Army, Army corps, Division, area, sub-area or independent Brigade in which the accused person is serving, and except in cases falling under Section 69 of the Army Act, 1950 (46 of 1950) in which death has resulted, the Officer Commanding the Brigade or sub-area or station in which the accused person is serving;

(d)"Competent Naval Authority" means the Chief of the Naval Staff or the Flag Officer Commanding-in-Chief, Western Naval Command, Bombay or the Flag Officer Commanding-in-Chief, Eastern Naval Command, Visakhapatnam or the Flag Officer Commanding-in-Chief , Southern Naval Command, Cochi or the Flag Officer Commanding, Western Fleet or the Flag Officer Commanding, Eastern Fleet or senior Naval Officer where the accused person is serving.

(e) "Competent Coast Guard Authority" means the Director General or Inspector General or Deputy Inspector General within whose command the accused person is serving.

3. Where a person subject to Military, Naval or Air Force Law or Coast Guard law or any other law relating to the Armed Forces of the Union for the time being in force is brought before a Magistrate and charged with an offence for which he is also laible to be tried by a Court-Martial, or Coast Guard Court, such Magistrate shall not proceed to try such person or to commit the case to the Court of session, unless:-

(a) he is moved thereto by a competent Military, Naval, Air Force or Coast Guard authority; or

(b) he is of opinion, for reasons to be recorded, that he should so proceed or to commit without being moved thereto by such authority.

4. Before proceeding under clause (b) of rule 3, the Magistrate shall give a written notice to the Commanding Officer or the competent Military, Naval, Air Force or Coast Guard authority, as the case may be, of the accused and until the expiry of a period of fifteen days from the date of service of the notice he shall not: -

(a) convict or acquit the accused under section 252, sub-sections (1) and (2) of section 255 sub-section (1) of section 256 or section 257 of the Code of Criminal Procedure, 1973 (2 of 1974) or hear him in his defence under Section 254 of the said Code; or

(b) frame in writing a charge against the accused under section 240 or sub-section (1) of section 246 of the said code; or

(c)make an order committing the accused for trial to the Court of session under section 209 of the said code;

(d)make over the case for inquiry or trial under section 192 of the said code.

5. Where a Magistrate has been moved by the competent Military, Naval, Air Force or Coast Guard authority, as the case may be, under clause (a) of rule (3), and such authority, as the case may be, subsequently gives notice to such Magistrate that, in the opinion of such authority, the accused should be tried by a court-martial or coast Guard Court., such Magistrate if he has not taken any action or made any order referred to in clauses under rule 4, before receiving the notice shall stay the proceedings and, if the accused is in his power or under his control, shall deliver him together with the statement referred to in sub-section (1) of section 475 of the said Code to the officer specified in the said sub-section.

6. Where within the period of fifteen days mentioned in rule 4 or at any time thereafter but before the Magistrate takes any action or make any order referred to in that rule, the Commanding Officer of the accused or the competent Military, Naval, Air Force or Coast Guard authority, as the case may be, gives notice to the Magistrate that in the opinion of such officer or authority, the accused should be tried by a court-martial, the Magistrate shall stay the proceedings, and if the accused is in has power or under his control, shall deliver him together with the statement referred to in sub-section (1) of section 475 of the said Code to the officer specified in the said sub-section.

7. (1) When an accused has been delivered by the Magistrate under Rule 5 or 6, the Commanding Officer of the accused or the competent Military, Naval, Air Force or Coast Guard authority, as the case may be, shall as soon as may be, inform the Magistrate whether the accused has been tried by a court-martial or Coast Guard Court or other effectual proceedings have been taken or ordered to be taken against him.

(2) When the Magistrate has been informed under sub-rule (1) that the accused has not been tried or other effectual proceedings have not been taken or ordered to be taken against him, the Magistrate shall report the circumstances to the State Government which may, in consultation with the Central Government, take appropriate steps to ensure that the accused person is dealt wioth in accordance with law.

8. Notwithstanding anything in the foregoing rules, where it comes to the notice of a Magistrate that a person subject to Military, Naval, Air Force or Coast Guard law, or any other law relating to the Armed Forces of the Union for the time being in force has committed an offence, proceedings in respect of which ought to be instituted before him and that the presence of such person cannot be procured except through Military, Naval, Air Force or Coast Guard authorities, the Magistrate may by a written notice require the Commanding Officer of such person either to deliver such person to Magistrate to be named in the said notice for being proceeded against according to law or to stay the proceedings against such person before the court-martial if since instituted, and to make a reference to the Central Government for determination as to the court before which proceedings should be instituted.

9. Where a person subject to Military, Naval, Air Force or Coast Guard Law, or any other law relating to the Armed Forces of the Union for the time being in force has committed an offence which in the opinion of competent Military, Naval, Air Force or Coast Guard authority, as the case may be, ought to be tried by a Magistrate in accordance with the civil law in force or where the Central Government has on a reference mentioned in rule8, decided that proceedings against such person be instituted before a Magistrate, the Commanding Officer of such person shall after giving a written notice to the Magistrate concerned, deliver such person under proper escort to that Magistrate.

CONCORDANCE

OLD TO NEW

Regs. IN No.	Disposal	Regs. IN Art No.	Disposal Art
315	Regs. 153(I)	325 (I)	
		(2)	Not applicable in the Indian Navy
316 (I)	Administrative Provision -To feature in Non-Statutory Manual of Naval Law.	(3)	Not necessary
		326	Navy Act Section 122 Proviso
(ii)	153(4)		
(iii)	Not necessary in view of Navy Act Section 97 (a)	327	187
(iv)	Administrative Provision-feature in Non-Statutory Manual of Naval Law.	328(I) (2)} (3)}	Navy Act Section 99 To 169.
			(4)} Not necessary-Matter of Administrative direction.
317	154		
318	Not necessary	(5)	165
		(6)	175
		(7)	181
319 (1)}	329		
(2)}	172 & 173		
(3)}		329 (I)	169, 170
(2)	171, 233		
320 (1)		(3)	
(2)			
(3)	Obsolete	(4)	Obsolete in view of
(4)		(5)	provisions of Navy Act.

(5)
(6) 330 Navy Act Section 100.

321 (i) 156
(2) 159

322 (i) 160

323(I) 161
(2) 164
(3) 163

(6) 190, 191 (7)

331 (I)
(2)
(3)
(4)Navy Act Sections 101 & 102
(5)
(6)
(7)
(8)
(9)

Regs. IN Art No.	Disposal Art. No.
332 (I)	Navy Act Section 103
(2)	Navy Act Section 103(2)
334	No corresponding provisions as the matter is now covered by the Indian Evidence Act.
335	Navy Act section 105
336	Navy Act Sections 106 & 107
337(I)} (2)}	Navy Act Section 108
338(1)	Navy Act Section 109
(2)"	" "
(3)"	" "
339	Regs. 191
340 (1)	Navy Act Section 110
(2)	
341 (I)	Redundant in view of provisions having been made for making affirmations
342(i)	166(g)

Regs. IN Art No.	Disposal Art. No.
346	Navy Act Section 69, 139 & 140
347(I)	Navy Act Sections 133
(2) (a)	
(b)	183
©	
(d)	
(3)	Obsolete
348	Covered by the Indian Evidence Act
349	185
350 (i)	Administrative Provision-To
(ii)	feature in Non-102 Statutory Manual of Law
(iii)	Covered by Indian Evidence Act shall also feature in Manual of Naval Law.
(iv)	
(v)	
(vi)	
(vii)	
(viii)	
351	178(3)
352	Purely advisory, not necessary.
353(I)	Navy Act Sections III & 131

(ii) 178(3)

343 (I) 179
(a) Covered by the Indian Evidence Act
(b) 179(5)
(4) 180
118 (5) 181
(6) Not necessary in view of Navy Act Section 137
(7) 178

344 Navy Act Sections 135 and 136

345 190(3)

346 Navy Act Section 69, 139 and 140

(2) " " "
(3) " "
(4) " " "

354 182

355 Navy Act Section 124 and Reg 188.

356 Navy Act Sections 116, 117 and 118

357 Navy Act Section 117 and 118.

358 Navy Act Section 19

Regs. IN Art No.	Disposal	Regs. IN Art No.	Disposal
359(I)	Navy Act Section 120	367	to Blank in the Regs. I. N.
(3)	193(2)		
(4)			
369			
360 (i)			
370			
(ii)	Administrative Provision- To feature in	371	(iii) Non-Statutory Manual of Naval Law.
(viii)			
(ix)			
		376	361 (i) Navy Act Sections 147 and 149.
Sections 150(3) and 155		381	(v) Navy Act Section 153
(vi)	Navy Act Section 154		383
(vii)	Navy Act section 154		384
			to
363(i)	96(I)		386 Blank in the Regs. I. N.
(ii)	97(I)		387
(iii)	97(2)		200(I) 197
(iv)	97(3) and 100(4)		388(I) 200(2)
(v)	99		(2) First portion obsolete last portion regarding re-assembling-Reg.200(2)
(vii)	100(3)		
(viii)	Obsolete-in view of		
(ix)	Navy Act Section 164		(3) Obsolete

(x) 102
(xi) 103(I) and (2)
(xii) 104(2) and (3)
(xiii) 105
(xiv) 100(4)

364 Navy Act Sections 128
365 190, 191, 192 and 194(2)
366 233

Regs. IN Art No.	Disposal Regs. IN
392	
394	
395	Obsolete
396	210 414
397	211 (Non-Statutory) as Reg.0137
398	212
399	213 415
399	213
400(I)	89(I) and (2)
(2)	89(3)
(3)	95(I) and (2)
(4)	95(2)
(5)	95(3)
(6)	95(4)
400-A	91 (vide NI 136/60)
401	214 Regulations 290
402(I)	215(I)
(2)	215(2)
403	216, 217
(4)	200(2), 203(1)
(5)	198
(6)	203(3)
(7)	205
(8)	205
(9)	203(I)
(10)	203(5)
(11)	208(2), (4) and (5)
(12)	208(2)
(13)	208(3)
389	233
390	207
391(I)	Omitted as this refers to the Merchant Shipping Act and Is not relevant to the Regulations

Regs. IN Art No.	Disposal Regs. IN
to	Blank in the Regs. IN
412(I)	92(I) and (2)
(2)	93
413(I)	94(I)
(2)	94(2)
Incorporated in part I	
	227
415-A	228
416(I)	229(I)
	(2) (2)
417	Omitted No. Provisions corresponding to Sections of Act of Parliament referred to therein exist.
418	230
419	Omitted. This article has been incorporated in Part I (Non-Statutory)as Regulation 2016.
420	231
421	232
422}	Incorporated in
423}	to 301 in part I II (Non-Legal)
424}	of the Regs.
425}	
426}	

Regs. IN Art. No.	Disposal
404	220
405	Obsolete
406(I)	221(I)
(2)	220(2)
407	222
408	223
409	224
410	225
411(I)	226(I)
(2)	Obsolete
426-A}	
427}	
428	Covered by NI 158/61 and incorporated in Part III (Non-legal) (Regulations 302 to 310) of the Regs. Navy.
429	Covered by NI 159/61 and incorporated in Regulations 311 to 318 in Part III (Non-Legal) of the Regs. Navy.

430(I) 7
(2) 12
(3) 8
(4) 7(3) and 8

431(I) 11, 21
(2) 11, 21
(3) 11, 21
(4) 21, (13)

432(1) 25,32
(2)
(3) 20(3)
(4) 25(5)
(5) 25(6)
(6) 28(I)
(7) 28(3)
(8) Administrative Provision-To feature in Non-Statutory Manual of Naval Law.

433(I) 16
(2) 19
(3) 20(I) & (2)
(4) 18
(5) Incorporated in the prescribed form for Punishment Warrant.

434 71

435 Administrative To be incorporated later in the Manual of Naval Law

436(1) Obsolete. D.W. Disgrace not a summary punishment now
(2) 37(I)
(3)
(4) 37(4)
(5)
(6) Obsolete
(7) 37(5)

437 Omitted. Matter covered by Disposal of Property Regula

438 to 444 Obsolete.

447 3

448 (I) 15
(2) 106
(3) Obsolete
(4) Obsolete

449(I) Obsolete
(2) 107

450 108

451(I) 109
(2) 114

452 Navy Act Section 82

453(1) 110
(2) 111
(3) 112
(4) 113

454 (I) 96(2)
(2) 98(I)
(3) 98(2)
(4) 98(3)
(5) 99(I) and (2)
(6) 101(2)

Regs. IN Art No.	Disposal
(7)	102
(8)	103
(9)	104
(10)	105
(11)	100(2), (4) and I0I(3)
455(1)	38(I)
(2)	38(2)
(3)	39
(4)	30
(5)	38(1)
(6)	Deleted as purely administrative.
(7)	Obsolete
455 (8)	Advancement regulation-NI2/S/61
(9)	
456 & 457	Blank in the Regs. I. N.
458	61
458-A	62 66(I) 65
459(1)	59(1)
(2)	(2)
(3)	(4)
(4)	59(3), (4) & (6)
(5)	
(6)	59(4)
(7)	60
Purely administrative	
460(I)	
(2)	63(4)
(3)	63(6) & (7)
(5)	63(8)
(2)	
461	51
462(I)	52(I)
(2)	(2) & (3)
(3)	53(I) & (2)
(4)	(3) & (4)

Regs. IN Art. No.	Disposal
463 (I)	54(I) & (2)
(2) (3) & (4)	
(3) (5)	
(4) (6)	
(5) (7)	
464	Obsolete
465(I)	55(I)
(2)	55(2)
465(3)	57
(4)	55(3)
(5)	58(2)
(6)	58(3)
(7)	58(3) and (4)
(8)	58(4)
(9)	58(5)
(10)	58(7)
(11)	57(3)
(2)	66(2)
(3)	66(3)
466 to 470	Obsolete
471	Deleted. Non-Statutory vide NI 167/60 and incorporated in part I as Regulation 3219
472	Deleted.
	60(3)
473(1)	44(1)
(2)	Deleted as unnecessary
(3)	41(I)
(4)	44(2)
(5)	44(3)
474(I)	41(I)
(2)	(I)
(3)	(I), (2) & (3)

Regs. IN Art. No.	Disposal
(4)	(4)
(5) 42(I) & (2)	
(6) 43(I) (3)	
(7) 43(2) (4)	
(8) 43(3) (5)	
475	45
(7)	
476(I)	50(I)
(2) (2)	
(3) (3)	
(4) (4)	
(5) (5)	
(6)	Deleted in view of Chapter III
477	Obsolete
478(I)	68
(2)	Not necessary-being a mere croes reference
479	64
480(1)	Obsolete
(2) 81	
480-A	To be considered later, No.of practical importance

Regs. IN Art, No.	Disposal
483 (I)	132(I) & (2)
(2)	132(3)
(3)	133(I)
(4)	133(2)
(5)	134
(6) 135	
(7)	Navy Act Section 49(2)
(8) 136	
(9)	S. R. O. 389 dated 12-12-61 Disposal of property.
(10)	62
484	Deleted-a cross reference only
485(I)	137
(2) 138	
(3) 139	
(4) 140	
(5) 141	
(6) 137(2)	
(7) 137(3)	
(8) 142	
(9) 143	
486(1) 144	
(2) 145	
487(I) 146(I) & (2)	
(2) (3)	
(3) (4)	

480-B Deleted – Being out of Place

481(I) Navy Act Section 49
(2) 127
(3) 128

482(I) 129
(2) 130
(3) 130
(4) 130
(5) 131
(6) 131

488 147

489(I) 115(I) & (2)
(2) (3) & (4)
(3) (5)
(4) (6)
(5) Omitted- A cross reference.

490(I) 116
(2) 117(I), (2) & (3) (3) 117(2)

Regs. IN Art No.	Disposal
(4)	119(I)
(5)	119(3)
(6)	119(4)
(7)	120
(8)	119(5) & (6)
(9)	121
(10)	122
491	126
492	Incorporated in Regulation 3305 in Part I (N0n-Statutory) of the Regs. Navy.

Regs. IN Art. No.	Disposal
493	123
494(I)	124
	(2) Deleted being out of date
	(3) 138(2)
	(4) Deleted being out of date
	(5) 125
495	
496	Blank in Regs. I. N.
497	

CONCORDANCE

NEW TO OLD

Regulation Regs. Number	Corresponding Article in Regs. I. N.	Regulation Number	Corresponding Article in I. N.
Chapter I			
1	New	30	455(4)
2	New	31	New
3	New	32	432(2)

4	New	33	New
5	New	34	445 and 446
6	New	35	446

Chapter II

7	430(I) & (4)	37	436(2), (3),(4),(5) & (7)
8	430(3)	38	455(I)
9	430	39	455(3)
10	New	40	New
11	431(I)	41	473(3) & 474(I) to (4)
12	430(2)	42	474(5)
13	435	43(I)	474(6)
14	433	43(2)	474(7)
15	448(I)	43(3)	474(8)
16	433(I)	44	473(I), (4) & (5)
17	New	45	475
18	433(4)	46	New
19	433(2)	47	New
20	433(3)	48	New
21	431	49	New
22	New	50	476
23	New	51	461
24	New	52	465(I), (2) & (4)
25	432(I), (2), (4) & (5)	53	462(3) & (4)
26	New	54	463
27	New	55	465(I),(2) & (4)
28	432(6) ?& (7)	56	New
29	New	57	465(3), (II)

Regulation Number	Corresponding Article in Regs. I. N.	Regulation Number	Corresponding Article in Regs. I. N.

Chapter IV

58	465(5),(6),(7),(8),(9), & (10)	89	400(I), (2) & (3)
59	459(I) to (6)	90	New
59(4)	New	91	400-A vide N. I.136/60
60	460(I0,(2),(6),(7) &(8)	92	412(I) & (2)
61	458	93	412(2)
62	458-A,483(10)	94	413
63	460(I),(2),(6),(7)&(8)	95	400(3) to (6)
64	479	96	363(I) & 454(2)
65	466(I)	97	363(ii) to (iv)
66	466(2) & (3)	98	454(2)
67	New	99	454(5) and 363(v)
68	478(I)	100	363(iv),(vi) and (xiv) and 454(II)
69	478	101	363(vi),454(6) & (II)
70	New	102	454(7) and 363(x)
71	434	103	363(xi)and454(8)
72	New	104	363(xii) & 454(9)
73	New	104(4)	454(8)
74	Appendix XIX N. I. 22/52	105	363(xiii)and454(9)
75	“	106	448(2)

76	" 107 449(2)
77	" 108 450
78	" 109 451(I)
79	" 110 453(I)
80	" 111 453(2)
81	" 112 453(3)
82	" 113 454(4)
83	" 114 451(2)
84	" 115 489(I)to(4)and(6)
85	" 116 490(I)
86	" 117 490(2) & (3)
87	" 118 New
88	" 119 490(4) to (6) & (8)
120	490(7) to (10)
121	490(9)

Regulation Number	Corresponding Article in Regs. I. N.	Regulation Number	Corresponding Article in Regs. I. N.

122	490(10),370 to 383
123	493,370 to383
124	494(I)
125	494(5)
126	491
127	481(2)
128	481(3)
129	482(I)
130	482(2) to (4)
131	482(5) & (6)
132	483(I) & (2)
133	483(3) & (4)
134	483(5)
135	483(6)
136	83(8)
137	485(I)
138	485(2)
139	485(3)
140	485(4)
141	485(4)
142	485(8)
143	485(9)
144	486(I)
145	486(2)
146	487
147	488, 362(i)
Chapter V	
148	New
149	New [see also S.134(2)]
150	S.134(2), 362(iii) & (iv)
151	New
152	New
153	315,316(ii), 362(v)
154	317,362(vi)
155	New
156	321(I)
157	New
158	New
159	321(2)
160	322(I)
161	323(I)
162	New
163	323(3)
164	323(2)
165	328(5)
166	342(I)
167	324(I)
168	324(2)
169	329(I)
170	329(I)
171	329(2)
172	319
173	319
174	322(ii), 324(3)
175	328(6)
176	325(I)
177	New
178	343(7), 351
179	343(I)
180	343(4)
181	328(7), 343(5)
182	354
183	347(2)
184	New
185	349
186	New
187	327
188	New
189	New

Regulation Number	Corresponding Article in Regs. I. N.	Regulation Number	Corresponding Article in Regs. I. N.

190	329(6), 365	211	397
191	329(6), 365	212	398
192	365	213	399
193	361(2)	214	401
194	361(3),	215	402
195	New	216	403
Chapter VI		217	403
196	370 to 383	218	New
197	New	219	New
Chapter VII		220	404 & 406(2)
197	388(I)	221	406(I)
198	388(5)	222	407
199	New	223	408
200	387 & 388(I) & (4)	224	409
201	New	225	410
202	New	226	411(I)
203	388(4),(6) &(10)	227	415
204	New	228	415-A
205	388(7)	229	416
206	New	230	418
207	390	231	420
208	388(II),(12)&(13)	232	421
209	New	233	329(2)&366,389,Reg.to be inserted in the draft.
210	396		

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