

# **The Coast Guard (Discipline) Rules, 1983**

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## MINISTRY OF DEFENCE

### NOTIFICATION

Dated the 19<sup>th</sup> May 1983

**S.R.O. 46(E)** - In exercise of the powers conferred by Sub-section (1) read with clause (a), (h),(i), (j) and (k) of sub-section (2) of Section 123 of the Coast Guard Act, 1978 (30 of 1978) , the Central Government hereby makes the following rules, namely:-

### The Coast Guard (Discipline) Rules, 1983

#### PRELIMINARY

1. **Short title.** - (1) These rules may be called the Coast Guard (Discipline) Rules, 1983.
  - (2) They shall come into force on the date of their publication in the official gazette.
  - (3) These rules shall apply to all persons subject to the Act.
2. **Definitions.** - In these rules unless the context otherwise requires, —
  - (a) "Act" means the Coast Guard Act, 1978 (30 of 1978).
  - (b) "Appendix" means an Appendix annexed to these rules.
  - (c) "Court" means a Coast Guard Court.
  - (d) "Commanding Officer" means the officer or other person in actual command of a ship.
    - (da) "District Commander" means the District Commander appointed by the  
Director General;
    - (db) "Enrolled Follower" means a person so enrolled in the Coast Guard;
    - (dc) "Executive Officer" means an officer specified under Section 57 of the

Act;

(dd) "Regional Commander" means the –

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

(e) "Section" means a section of the Act.

(f) All other words and expressions used in these rules and defined in the Act shall have the same meaning as in the Act.

**3. Reports and Applications.** - Any report or application directed by these rules to be made to a Coast Guard 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 in appendices.**- (1) The forms set for the in the appendices to these rules, with such variations as the circumstances of each case may require, may be used for the respective purposes therein mentioned, and if used, shall be sufficient, but a deviation from such forms shall not, be reason only of such deviation, render invalid any charge, order, proceedings or any other document relevant to these rules.

(2) Any omission of any such form shall not, be reason only of such omission, render any act of things invalid."

## **ARREST AND INVESTIGATION**

**5. Forms of arrest.** - (1) Arrest may be either open arrest or close arrest.

(2) An arrest, unless otherwise specified, shall mean an open arrest.

(3) An order imposing arrest may be communicated to the person to be arrested either orally or in writing.

**6. Authority to order arrest.** - (1) No person subject to the Act shall be arrested on a charge under the Act except under and in accordance with the orders of a superior officer having power of command over him.

(2) Notwithstanding anything contained in sub-rule (1) any person subject to the Act may be placed under arrest by any superior officer : —

- (a) if he commits an offence against such superior officer, or
- (b) if he commits an offence in the view of superior officer, or
- (c) If he is behaving in a disorderly manner and the said superior officer considers it necessary to place such a person under arrest with a view to stop such disorderly behavior.

(3) A superior officer effecting arrest under sub-rule (2) shall, as soon as possible, and in any case within twenty four hours of such arrest send a report to the Commanding Officer of the arrested person and in case of the arrest of an officer of and above the rank of Commandant, to his immediate superior officer.

**7. Arrest how imposed. - (A) Close Arrest. -** (1) (a) Close arrest in the case of sailors and enrolled followers shall be imposed by informing the person to be arrested and ordering him to be marched to the place of confinement under an escort of person of similar or superior rank.

- (b) Where no such escort is available the person arrested shall be ordered to report himself immediately to the Coast Guard Police Officer or in his absence to the duty officer of his ship or station or other place of confinement.
- (2) (a) Close arrest in the case of officers and subordinate officers shall be imposed by placing such officer or subordinate officer under the custody of another person of similar or superior rank and wherever considered necessary such officer, or subordinate officer may be confined under charge of a guard.
- (b) The person under arrest shall not leave his quarter or place of confinement without the permission of his Commanding Officer, or the superior officer designated by his Commanding Officer in this behalf.

**(B) Open Arrest -** (3) (a) Open arrest shall be imposed by informing the person to be arrested (whether he is an officer, subordinate officer, sailor or any other enrolled person) that he is under open arrest and that he shall confine himself within such limits as may be specified in this behalf by the Commanding Officer or the concerned superior officer effecting such arrest.

- (b) The Commanding Officer may, from time to time, vary the limits referred to in clause (a) above.

**8. Investigation after arrest. -** The charge made against any person subject to the Act taken into custody shall, without any delay, be investigated by the proper authority and as soon thereafter as may be, either proceeding shall be taken for the trial of such person, or he shall be released from custody.

**9. Release from arrest during investigation.** - (1) Any person arrested under Rule 7 may be released from arrest under the order of the Commanding Officer or an officer superior to the Commanding Officer.

(2) Subject to the provision of rule 10, no person except on the basis of fresh evidence against him to be re-arrested.

**10. Release without prejudice to re-arrest.** - Pending the completion of the investigation or convening of a Coast Guard Court, any person who was been placed under arrest may with-out prejudice to re-arrest be released by his Commanding Officer or by any officer superior to his Commanding Officer.

**11. Arrest when to be imposed.** - (1) Any person charged with :

(a) an offence under sections 19, 20, 21 or 22 ;

(b) a civil offence punishable with death or imprisonment for life ;

(c) any other offence under the Act: -

(i) if the interest of discipline so require, or

(ii) if the person concerned deliberately undermines discipline, or

(iii) if the person concerned is of violent disposition, or

(iv) if the person concerned is likely to absent himself with a view to avoid trial,  
or

(v) if the person witnesses or temper evidence

shall be placed under arrest.

(2) Where any person arrested shows symptoms of sickness, medical assistance shall be provided for such person.

**12. Special provision in case of arrest of intoxicated persons.** - (1) Where any intoxicated person has been arrested, he shall, as far as possible be confined separately and shall be visited by the Duty Officer, or the Duty Subordinate Officer or the person in charge of the guard, once every two hours.

(2) An intoxicated person shall not be taken before a superior officer for investigation of his case until he has become sober.

**13. Arrest in case of persons whose trial has been ordered.** - (1) Unless the convening authority has otherwise directed, on the commencement of the trial of a

person by the Coast Guard Court, the said person shall be placed under arrest and shall remain under arrest during the trial.

(2) Where a sentence lower than detention is passed by a Coast Guard Court, the arrested person shall be released by his Commanding Officer:

Provided that a person who has been sentenced to be dismissed shall not be put on any duty.

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

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

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

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

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

**15. Rights of a person under arrest.** - (1) (a) Any person placed under arrest shall, at the time of being placed under arrest, be given in writing by the officer effecting the arrest, particulars of the charges against him.

(b) The said particulars shall be rendered in simple language and also explained to the accused.

(c) Notwithstanding anything contained in clause (a), where during the investigation other offences committed by the accused are discovered, it shall be lawful to charge such person with those offences.

2. (a) The Duty Officer or Duty Subordinate Officer shall every day make a visit to the person under arrest and take the orders of the Commanding Officer on any request or representation made by the person under arrest.

(b) The request or representation made by the person under arrest shall be entered in the form set out in Appendix II.

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

- (i) where a disciplinary action under the Act against him is contemplated or is pending; or
- (ii) where in the opinion of such authority, he has engaged himself in activities prejudicial to the interests or the security of the State:

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

Provided further that the Director-General shall report the facts of each case of suspension under the first proviso immediately to the Central Government and all such orders of suspension shall not be valid unless confirmed by the Central Government within a period of one month from the date of the said order.

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

- (i) with effect from the date of his detention where his detention by the civil police on a criminal charge or otherwise exceeds a period of twenty-four hours; or
- (ii) with effect from the date of his conviction if he is convicted by any court on a criminal charge and awarded a sentence of imprisonment for a term exceeding forty-eight hours.

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

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

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

## **CHOICE OF JURISDICTION BETWEEN COAST GUARD COURT AND CRIMINAL COURT**

**16. Trial of Cases either by Coast Guard Court or Criminal Court.** - (1) Where an offence is triable by a criminal court and Coast Guard Court, an officer referred to

- (a) (i) Where the offence is committed by the accused in the course of the performance of his duty as a member of the Coast Guard; or
- (ii) Where the offence is committed in relation to property belonging to the Government or Coast Guard or a person subject to the Act; or
- (iii) Where the offence is committed against a person subject to the Act, direct that any person subject to the Act, who is alleged to have committed such an offence, be tried by a Court; and

(b) in any other case, decide whether or not it would be necessary in the interests of discipline to claim as per Appendix IIA for trial by a Coast Guard Court any person subject to the Act who is alleged to have committed such an offence.

(2) In taking a decision to claim an offender for trial by a Coast Guard Court, an officer referred in S. 71 may take into account all or any of the following factors, namely :-

- (a) the offender is on duty or has been warned for duty and it is felt that he is trying to avoid such duty;
- (b) the offender is a young person undergoing training and the offence is not a serious one and the trial of the offender by a criminal court would materially affect his training;
- (c) the offender can, in view of the nature of the case, be dealt with summarily under the Act.

**17. Cases not to be tried by Coast Guard Court.** - Without prejudice to the provision of sub-rule (1) of rule 16 an offender may not be claimed for trial by a Coast Guard Court : —

- (a) where the offence is committed by him along with any other person not subject to the Act whose identity is known; or
- (b) where the offence is committed by him while on leave or during absence without leave.

## **INVESTIGATION AND SUMMARY DISPOSAL**

**18. Offence Report.** - Where it is alleged that a person subject to the Act, has committed an offence punishable thereunder the allegation shall be reduced to writing in the form set out in Appendix IIIA.

**19. Hearing by officer of the Day/Officer of the Watch and the Executive Officer.** -

(1) (a) In the case of a person subject to the Act, other than an officer, the case may, in the first instance, be heard by the officer of the Day/Officer of the Watch and then by the Executive Officer.

(b) The witnesses shall give evidence in the presence of the accused who shall have the right to cross-examine them.

(c) The accused shall have the right to call witnesses in defence and to make a statement.

(2) After hearing the charge under sub-rule (1), the Officer of the Day/Officer of the Watch or the Executive Officer may : —

(a) award any punishment which he is empowered to award, or

(b) dismiss the charge when the charge is not proved, or

(c) refer the case to the Commanding Officer:

Provided that he shall not dismiss the charge empowered a punishment :

(a) if the case has been reserved by the Commanding Officer for disposal by himself; or

(b) if the accused is under close arrest.



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

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

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

Provided that the Commanding Officer shall not dismiss a charge under any of the circumstances under rule 21 or for any offence under rule 22.

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

- (a) award any of the punishment which he is empowered to award; or
- (b) remand the accused for preparing a record of evidence or an abstract of evidence against him:

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

**21. Attachment to another unit.** - The Commanding Officer shall not deal with any case : -

(a) where the offence with which the accused is charged is against the Commanding Officer himself; or

(b) where the Commanding Officer is himself a witness in the case against the accused; or

(c) where the Commanding Officer is otherwise personally interested in the case the accused shall be attached to another ship or station for the disposal of the case under the orders of the District Commander or the Regional Commander :

Provided that a Commanding Officer shall not be disqualified from hearing a charge merely because the offence was committed against the property of a Coast

Guard Mess or band or institution of which the Commanding Officer is a member or trustee or because the offence is one of disobedience of such Commanding Officer's orders.

**22. Charges not to be dealt with summarily.** - A charge for an offence under S.17 or Clause (a) of S.19 or Clause (a) of S. 23 or S.49 (other than that for simple hurt or theft) or a charge for abetment of or an attempt to commit, any of these offences shall not be dealt with summarily.

**23. Record of Evidence.** - (1) The Commanding Officer may either prepare the record of evidence himself or detail another officer to do so.

(2) The witnesses shall be summoned in accordance with Section 79.

(3) The witness give their evidence in the presence of the accused and the accused shall have the right to cross-examine all witness who give evidence against him.

(4) After all the witnesses against the accused have been examined, he shall be cautioned in the following terms:—

"You may make a statement if you wish to do so, you are not bound to make one and whatever you state shall be taken down in writing and may be used in evidence".

(5) The accused may call witnesses in his defence and the officer recording the evidence may ask any question that may be necessary to clarify the evidence given by such witnesses.

(6) All witnesses shall give evidence on oath or affirmation:

Provided that, no oath or affirmation shall be given to the accused nor shall he be cross-examined.

(7) (a) The statement given by witness shall ordinarily be recorded in narrative form and the officer recording the evidence may, at the request of the accused, permit any portion of the evidence to be recorded in the form of question and answer.

(b) The witnesses shall sign their statements after the same have been read over and explained to them.

(8) Where a witness cannot be compelled to attend or is not available or his attendance cannot be procured without an undue expenditure of time or money and after the officer recording the evidence has given a certificate in this behalf, a written statement signed by such witness may be read to the accused and included in the record of evidence.

(9) After the recording of evidence is completed, the officer recording the evidence shall give a certificate in the following form : —

"Certified that the record of evidence ordered by \_\_\_\_\_ was made in the presence and hearing of the accused and the provisions of rule 23 have been complied with".

**24. Abstract of evidence.** - (1) An abstract of evidence shall be prepared either by the Commanding Officer or an officer detailed by him.

(2) The abstract of evidence shall include : —

(i) signed statement of witnesses wherever available or a precise thereof;  
(ii) copies of all documents intended to be produced at the trial;  
(iii) a precis of the evidence where signed statements of any witnesses are not available.

(3) A copy of the abstract of evidence shall be given, by the officer making the same to the accused and the accused shall be given an opportunity to make a statement if he so desires after he has been cautioned in the manner laid down in sub- rule (4) of rule 23.

Provided that the accused shall be given such time as may be reasonable in the circumstances but in no case less than twenty four hours after receiving the abstract of evidence to make his statement.

**25. Investigation of cases by Police.** - Where the Commanding Officer considers it necessary so to do, he may lodge a report with the police for investigation of any case.

**26. Disposal of case by Commanding Officer after Record or Abstract of evidence.** - (1) Where an officer has been detailed to prepare the record of evidence or to make an abstract thereof he shall forward the same to the Commanding Officer.

(2) The Commanding Officer may, after going through the record or abstract of evidence:

(a) dismiss the charge, or

(b) rehear the charge and award one of the summary punishments, or

(c) apply to the Convening Authority to convene a Coast Guard Court for the trial of the accused.

**27. Application for trial by a Coast Guard Court.** - An application for trial by a Coast Guard Court shall be made by the Commanding Officer in the form set out in Appendix IV and shall be accompanied by five copies of the record or abstract of evidence and charge sheet and such other documents as are mentioned in that application form.

**28. Summary Punishments.** - Punishments enumerated in section 57 may be awarded summarily as follows:—

- (a) An order for the dismissal of a person from Coast Guard Service whether accompanied by other punishments or not shall be made only with the approval of the Director General ;
- (b) Punishments specified in clauses (c) and (d) of section 57 shall not have effect unless the punishment approval form is approved by the Inspector General or Deputy Inspector General as the case may be, under whom the offender is serving;
- (c) The punishment approval form for award of punishments of imprisonment, dismissal, detention and reduction to the ranks or to a lower rank shall be accompanied by a record or abstract of evidence;
- (d) If an officer having power to approve a punishment may consider for any reason that the punishment proposed is illegal, unjust, or excessive he may cancel, vary or remit the punishment within the limits of the powers of punishment of a Commanding Officer and the punishment so altered shall be the punishment awarded;
- (e) At any time before the sentence is announced, 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 punishment approval form has been approved by the appropriate authority, the sentence shall not be modified or withdrawn without the consent of that authority;
- (f) After signature and approval where necessary, the punishment approval form shall be dated and formally read forthwith to the offender by the Commanding Officer ;
- (g) the date of Punishment Approval Form and the date of reading the Punishment Approval Form shall always be the same and where there is an unreasonable interval between the dates of commission of the offence and the reading of Punishment Approval Form, the reason for such interval shall be stated in the Punishment Approval Form ;
- (h) When an offender whose case has been fully investigated has been sent to a hospital the punishment approval form shall be formally read to him in the hospital unless the Medical Officer certifies that the offender is medically unfit to have the punishment approval form read to him in which case the formal reading

may be carried out by the Commanding Officer in this office in the absence of the offender and such formal reading of the punishment approval form shall have the same effect as if it had been read to the offender;

(i) The fact of the punishment approval form having formally been read in the absence of the offender shall be recorded on the punishment approval form and shall be intimated to the offender as soon as he is in a fit state to receive such intimation.

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

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

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

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

**29. Reduction to the ranks or to a lower rank in the case of sailors.** - A sailor may be reduced to any rank or to a lower rank provided that no sailor shall be reduced to rank: —

(a) below the rank of Navik or Yantrik, as the case may be ;

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

**30. Fine in respect of civil offences.** - A fine not exceeding rupees two hundred and fifty may be imposed summarily when a subordinate officer, sailor or other enrolled person is found guilty of a civil offence.

**31. Mulcts of Pay and allowances for improper absence.** - Every subordinate officer, sailor or other enrolled person who is 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 day's leave for every three hours of absence or part thereof;

(c) where the period of absence exceeds thirty six hours, one day's pay and one day's leave for every three hours upto 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;

(d) if the period of absence is trivial or if there are extenuating circumstances and 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;

(e) the provision of sub -rule (b) shall apply to leave breaking up to thirty six hours dealt with in conjunction with other offences;

(f) if the period of absence exceeds thirty six hours or the offence is aggravated or repeated, any other punishment permitted by these rules may be awarded according to the degree of the offence in addition to the mulcts of pay and stoppage of leave on the scale mentioned in sub-rule (a) 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) 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;

(g) if the number of days mulcts in accordance with sub-rule (f) or if the period of sentence to which a leave breaker is confined by reason of the punishment of detention 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) be reduced to less than one day's pay or each day's absence.

**32. General Provision regarding mulcts.** - (1) For the purpose of these rules, a day's pay shall include full pay and allowances but shall not include the composite personal maintenance hygiene allowance, extra pay, special pay or kindred pay.

(2) The scale of mulcts shall not apply to in case of persons charged with desertion.

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

**33. Limits of punishment under Section 26.** - (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 shall constitute the main offence against discipline and the aggravation of the offence shall depend upon the time for which a person remains absent which shall be dealt with on its merits in each case.

(3) Leave breaking offences shall be recorded on the offence report as follows : —

"Did remain absent over leave \_\_\_\_\_ hours \_\_\_\_\_ minutes, namely from \_\_\_\_\_ to \_\_\_\_\_".

**34. Application of Rules 32 and 33.** - The provisions of rules 32 and 33 shall apply to breaking out of ship breaking away from a landing party and other cases of improper absence other than desertion, except that any punishment applicable to the offence may be awarded in addition to mulcts of 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.

**35. Calculation of period of absence.** - (1) The period of improper absence included in the charge shall 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 person surrenders or is apprehended as an absentee 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 such surrender or apprehension, but if a lengthy journey is 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 handed on another charge and is subsequently handed over to the Coast Guard authorities, his absence without leave shall be regarded as ceasing from the time of his arrest by the civil authority.

**36. Simple leave-breaking.** - Unless an offence of leave breaking is a repeated or aggravated offence, the punishment for the 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 if the offence was the sequel to an offence of improperly leaving a ship or place of duty, other punishments may be awarded in addition.

**37. Aggravated offence of leave breaking.** - (1) For the purpose of rules 31 to 36 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 was 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 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.

**38. Repeated offence.** - A repeated offence of leave-breaking is one committed in the same ship or station within six months of a previous leave-breaking offence.

**39. 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 persons who are drunk when received in the Coast Guard or other custody, whether from leave of 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 punishment by way of imprisonment or detention may be awarded at the discretion of the Commanding Officer.

(3) 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 to the Coast Guard service.



**40. Deprivation of good conduct badges.** - (1) A person who is sentenced to imprisonment or detention or a sailor reduced to any ranks or to a lower rank shall be deprived of any good conduct badge he may hold.

(2) One badge lost may be regained by six months "very good conduct", and additional badges by further periods of six months reckoned in each case from the date of preceding restoration.

(3) If, however, a person 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.

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

(5) Restoration shall be made when they become due whether the person prefers his claim or not.

**41. Reprimand.** - The punishment of reprimand shall be awarded only to Uttam Naviks, Yantriks and above.

**42. Extra work and drill.** – Naviks and enrolled followers may be awarded the punishment of extra work and drill upto fourteen days. When so punished they shall be subject to the following routines:—

- (a) leave to be stopped;
- (b) to do extra work or drill during non-working hours i.e. (from 1700 to 1830) for one and a half hour;
- (c) to be mustered frequently;
- (d) when a person is under punishment of extra work and drill, he shall be allowed to leave the ship or station only on duty though he may be allowed to proceed on long leave at the discretion of the Commanding Officer;
- (e) the punishment shall be suspended on Sundays and holidays, but these days shall count as part of the period for which any sentence is awarded.

**43. Stoppage of leave.** - (1) When stoppage of leave is awarded for leave-breaking, it shall not exceed the scale laid down except for aggravated or repeated offence.

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

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

**44. Admonition.** - When a person is found guilty of an offence which of itself or in view of the mitigating circumstances is not considered to deserve any more serious punishment, he shall be awarded the punishment of admonition.

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

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

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

## **ON CHARGES AND MATTERS ANTECEDENT TO TRIAL BY**

### **A COAST GUARD COURT**

**45. Charge - sheet.** - (1) A charge-sheet shall contain the whole of the issue or issues to be tried at one time and may contain more than one charge, if the charges are founded on the same facts or form part of series of offences of same or similar character :

Provided that a charge under section 25, section 26 and section 41 may be included in any charge-sheet, notwithstanding that other charges in that charge-sheet are not founded on the same facts or do not form part of series of offences of the same or

similar character.

(2) Every charge-sheet shall in its lay out follow the appropriate specimen set out in Appendix V to these rules.

**46. Charges.** - (1) There shall be a separate charge for each offence.

(2) (a) If a single act or series of acts is of such nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once or he may be charged in the alternative with having committed some one of the said offence .

(b) the charge for the more serious offences shall precede the one for the less serious offence.

(3) Each charge consist of two parts, namely —

(a) Statement of the offence, and

(b) particulars of the offence.

(4) The offence shall be stated, if not a civil offence, as nearly as practicable, in the words of the Act, and if a civil offence, in such words as would sufficiently describe that offence.

(5) (a) The particulars shall state the time and place of the alleged offence and the person (if any) against whom, or the thing (if any) in respect of which, it was committed and these should be sufficient to give the accused notice of the matter with which he is charged.

(b) In case such particulars are not sufficient to give the accused notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the offence was committed as will be sufficient for that purpose.

**47. Joint Charges.** - (1) Any number of accused may be charged jointly and tried together for an offence averred to have been committed jointly by them.

(2) Any number of accused though not charged jointly may also be together for an offence averred to have been committed by one or more of them and abetted by other or others.

(3) Where the accused are so charged under sub-rule (1) or sub-rule (2) any one or more of them may be charged with, and tried for any other offence with which they could have been charged under sub-rule (1) of rule 45.

**48. Validity of charge-sheet.** - A charge-sheet shall not be invalid merely by reason of the fact that it contains any mistake in the name or description of the accused, and in the construction of a charge-sheet these shall be resumed in favour of supporting every proposition which may reasonably be presumed to be impliedly included, though not expressed therein, and the statement of the offence and the particulars of the offence shall be read and construed together.

**49. Amendment of the charge by the Coast Guard Court.** - (1) At any time during the trial by a Coast Guard Court if it appears to the court that there is in the charge-sheet;

(a) a mistake in the name or description of the accused, or

(b) a mistake, which is attributable to a clerical error or omission, the Court may amend the charge-sheet so as to correct the mistake.

(2) If at any time during a trial it appears to the Coast Guard Court before it closes to deliberate on its findings that it is desirable in the interests of justice to make any addition to, omission from, or alteration in a charge which cannot be made under sub-rule (1), it may, if such addition, omission, or alteration can be made without unfairness to the accused and with the concurrence of the Law Officer to amend the charge.

**50. Amendment to charge by Convening Authority.** - When a Coast Guard Court reports to the Convening Authority under rule 64, the Convening Authority may amend the charge in respect of which, the Court has reported to such authority by making any addition to, omission from or alteration in the charge which, in the opinion of aforesaid authority is desirable in the interest of justice and which can be made without unfairness to the accused.

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

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

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

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

## CONVENING OF COAST GUARD COURTS

**51. Action by the Convening Authority on receiving an application for convening a Coast Guard Court.** - As soon as the Convening Authority receives an application for convening a Coast Guard Court it shall scrutinise the charge and the evidence against the accused where necessary in consultation with the Chief Law Officer or a Law Officer and

- (i) shall direct the Commanding Officer to dismiss the charge where the evidence against the accused is insufficient and further evidence is not likely to be available and may direct him to do so if considered inadvisable to proceed with the trial ; or
- (ii) may return the case to the Commanding Officer for being dealt with summarily if it is considered that the same can be adequately dealt with ; or
- (iii) may return the case for recording further evidence if it is considered that the evidence already recorded is insufficient and further evidence may be available.

**52. Disqualification of officers for serving on Coast Guard Court.** - An officer shall be disqualified from serving on a Coast Guard Court if due, —

- (a) is an officer who convened the Coast Guard Court, or
- (b) is the prosecutor or a witness for the prosecution, or
- (c) has taken any part in the investigation of the case, which would have necessitated in applying his mind to any part of the evidence or to the facts of the case, or
- (d) is the Commanding Officer of the accused, or the Commanding Officer of the Ship to which the accused belonged at the time of Commission of the alleged offence, or
- (e) has a personal interest in the case.

**53. Composition of the Coast Guard Court.** - (1) A prosecutor shall not be qualified to sit on the Coast Guard Court for the trial of the person he prosecutes.

(2) The officer ordering the Coast Guard Court, the officer who was the Commanding Officer of the ship to which the accused belonged at the time of the commission of the alleged offence and the officer investigating the offence shall not be qualified to sit on a Coast Guard Court for the trial of such accused.

(3) Except as otherwise provided in these rules, officers of the Coast Guard shall be eligible to sit as members of a Coast Guard Court irrespective of the branch of the Coast Guard service to which they belong :

Provided that —

(a) the majority of the members of the Coast Guard Court, including the presiding officer, shall be officers of the General Duty branch of the Coast Guard service, and

(b) at trials for offences under sections 27, 28, 29, 30 and 31, officers other than officers of the General Duty Branch of the Coast Guard shall not be eligible to sit.

(4) The Presiding Officer of a Coast Guard Court shall be the senior member.

(5) & (6) Omitted

(7) No Coast Guard Court for a person below the rank of Commandant shall be duly constituted unless the Presiding Officer is a substantive or acting Commandant or of higher rank.

(8) No Commandant or Deputy Commandant or Assistant Commandant shall be required to sit as a member of a Coast Guard Court when four officers of higher rank and junior to the Presiding Officer can be assembled at the place where the Coast Guard Court is to be held, but the regularity or validity of any Coast Guard Court or of the proceedings thereof shall not be affected by any Commandant, Deputy Commandant or Assistant Commandant being required to sit or sitting thereon under any circumstances and when any Commandant, Deputy Commandant or Assistant Commandant sits on any Coast Guard Court, the members of it shall not be less than five.

(9) No Coast Guard Court shall be deemed to have constituted unless attended by the Law Officer designated for that purpose by the Chief Law Officer.

**54. Duties of convening officer when convening Coast Guard Courts.** - When an officer convenes a Coast Guard Court he shall —

(a) issue a convening order in the form set out in Appendix VI;

(b) direct upon what charges the accused is to be tried and ensure that the accused has been remanded for trial by a Coast Guard Court upon these charges, by his Commanding Officer;

(c) if he is of the opinion that charges shall be put in separate charge sheets, so direct and shall also direct the order in which they are to be tried;

(d) direct, if there is more than one accused, whether the accused are to be tried jointly or separately;

(e) appoint members of the court and any waiting members;

(f) appoint an officer, subject to the Act or a counsel assisted by such an officer to prosecute or direct his Commanding Officer to appoint an officer subject to the Act, to prosecute:

Provided that the Convening Authority may appoint more than one such officer to prosecute if he thinks fit.

(g) appoint an interpreter where necessary;

(h) Omitted

(i) to appoint an officer to perform the duties mentioned in rule 118 and such other duties as may be directed by the Presiding Officer or the Law Officer to perform for the due transaction of the administrative business of the Coast Guard Court;

(j) forward to the Law Officer, each member of the Coast Guard Court and to each waiting member thereof a copy of the charge-sheet and convening order;

(k) forward to the prosecutor copies of the charge-sheet and convening order and the original record or abstract of evidence together with an unexpurgated copy thereof showing the passage (if any);

(l) ensure that the Commanding Officer has summoned all prosecution witnesses and defence witnesses as the accused may have requested to, be summoned under rule 56.

**55. Preparation of defence by the accused.** - (1) An accused, who has been remanded for trial, shall be afforded proper opportunity for preparing his defence and shall be allowed proper facilities with his defending officer or Counsel and with his witnesses.

(2) A defending officer shall be appointed to defend an accused who has been remanded for trial unless the accused states in writing that he does not wish an appointment to be made.

(3) If the prosecution is to be undertaken by a legally qualified officer or by a Counsel the accused shall be notified of the fact in sufficient time to enable him, if he so desires, to make arrangements for a legally qualified officer or a Counsel to defend him.

(4) As soon as practicable after a decision has been taken to place the accused on trial and in any case not less than seven days before his trial, he shall be given —

- (a) a copy of the charge-sheet;
- (b) an unexpurgated copy of the record or abstract of evidence showing the passages (if any) which have been expurgated;
- (c) notice of any additional evidence which the prosecution intends to adduce and
- (d) if the accused so requires, a list of the ranks, names and ships of the members who are to form the Coast Guard Court and of any waiting member.

(5) When an accused is given a copy of the charge-sheet and of the record or abstract of evidence in accordance with this rule he shall —

(a) have the charge explained to him, and

(b) be informed that upon his making a written request to his Commanding Officer not less than twenty four hours before his trial requiring the attendance of a witness (other than the witness for the prosecution) whom he desires to call in his defence (such witness to be named by him), reasonable steps will be taken in accordance with these rules to procure the attendance of any such witness at his trial.

**56. Summoning of defence witnesses.** - (1) Subject to provision of sub-rule (2) the Commanding officer shall be request in this behalf by the accused, summon such witnesses as are specified by the accused.

(2) Where the Commanding Officer is satisfied that the evidence to be given by any witness is not likely to be of material assistance at the trial, he may refuse to summon such witness.

(3) Where the Commanding Officer has refused to summon the witnesses under sub rule (2) the accused may make an application to the Coast Guard Court for the summoning of such witness and the Coast Guard Court may, if it considers it to be expedient in the interest of justice, order the summoning of such witness and, if necessary adjourn the proceedings, for the attendance of such witness.



## PROCEDURE FOR COAST GUARD COURTS

**57. Assembly and swearing of Coast Guard Courts.** - Upon assembling the Coast Guard Court shall before beginning the trial, satisfy in closed court —

- (a) that the court has been convened in accordance with the act and these rules;
  - (b) that the court consists of not less than the minimum number of officers specified in the Act;
  - (c) that the members are of the required rank;
  - (d) that members have been duly appointed and are not disqualified under the Act;
  - (e) that the Law Officer has been duly appointed;
  - (f) that the accused appears from the charge-sheet, to be subject to the Act and to be subject to the jurisdiction of the court; and
  - (g) that such charge is correct in law and framed in accordance with these rules.
- (2) (a) Where a vacancy occurs by reason of disqualification of a member of the court under the Act or being absent when the court assembles, the Presiding Officer may appoint a duly qualified waiting member to fill that vacancy.
- (b) The Presiding Officer may, if the interests of justice so require, substitute a duly qualified waiting member for a member appointed by the Convening Authority.
- (3) If the court is not satisfied on any of the matters mentioned in sub-rule (1) and is not competent to rectify such matter itself under the Act or these rules, it shall, before commencing the trial, report thereon to the Convening Authority.
- (4) When the court has complied with these rules and is ready to proceed with the trial, the Presiding Officer shall open the court and the trial shall begin.

**58. Commencement of trial.** - (1) As soon as the Court has been opened, the accused shall be brought before it and the prosecution, the person or persons, if any defending the accused and the audience admitted.

(2) The order convening the court and the names of the officers appointed to try the accused shall be read over to the accused by the Law Officer and the accused shall be given an opportunity to object to any of the officers in accordance with section 74.

(3) When a court is to try more than one accused whether separately or jointly, each accused shall be given an opportunity to object to any officer on the court in accordance with the foregoing sub-rule and shall be asked separately whether he has any such objection.

(4) An accused shall state the names of all the officers to whom he objects before any objection is disposed of.

(5) If more than one officer is objected to, the objection to each officer shall be disposed of separately and the objection to the lowest in rank shall be disposed of first.

(6) An accused may make a statement and call any person to make a statement in support of his objection.

(7) An officer to whom the accused has objected may state in open court anything relevant to the objection of the accused whether in support or in rebuttal thereof.

(8) An objection to an officer shall be considered in closed court by all the other officers on the court and the officer objected to shall not be present at that time.

(9) When an officer objected to retires and there is a duly qualified waiting member in attendance, the presiding officer shall immediately appoint him to take the place of the officer who has retired.

(10) The court shall satisfy itself that a waiting member who takes the place of a member of the court is of the required rank and not disqualified under the Act and shall give the accused an opportunity to object to him and shall deal with any such objection in accordance with the Act and these rules.

(11) If as a result of the allowance of an objection to a member there are insufficient officers available to form a court in compliance with the Act; the court shall report to the Convening Authority without proceeding further with the trial and the Convening Authority may either appoint another officer as a member to fill the vacancy or convene a fresh court to try the accused.

**59. Swearing or affirming of members.** - As soon as the Court is constituted with the proper number of officers who are not objected to or objections in respect of whom have been over-ruled, on oath or affirmation shall be administered to the Presiding Officer

and every member in the order of their seniority by the Law Officer in the presence of the accused in one of the following forms or in such other form to the same purport as the court ascertains to be according to the religion of the concerned officer or otherwise binding on his conscience.

#### FORM OF OATH

"I, ..... swear by Almighty God, that I will well and truly try the accused (or accused person) before the court, according to the evidence, and that I will, duly administer justice according to the Coast Guard Act, 1978 without partiality, favour or affection: and I do further solemnly, sincerely and truly declare and affirm that I will not, on any account, at any time, whatsoever, discover, the vote or opinion of any particular member of the Court unless required to give evidence thereof by a court of law."

#### FORM OF AFFIRMATION

"I,..... do solemnly, sincerely and truly declare and affirm, that I will well and truly try the accused (or accused persons) before the court, according to the evidence, and that I will duly administer justice according to the Coast Guard Act, 1978 without partiality, favour or affection; and I do further solemnly ,sincerely and truly declare and affirm that I will not on any account at any time whatsoever, disclose or discover, the vote or opinion of any particular member of this court unless required to give evidence thereof by court of law".

**60. Swearing or affirmation of Law Officer and other officers.** - After the members of the Court are all sworn or have made affirmation, an oath or affirmation shall be administered to the following persons or such of them as are present at the Court in such of the following forms as shall be appropriate, or in such other form to the same purport as the Court ascertains to be according to the religion or otherwise binding on the conscience of the person to be sworn or affirmed.

#### LAW OFFICER

#### FORM OF OATH

I, ..... swear by Almighty God that I will, to the best of my ability, carry out the duties of Law Officer, in accordance with the Coast Guard Act, 1978 and the rules made thereunder without partiality, favour or affection, and I do further swear that I will not, on any account at any time whatsoever, disclose or discover the vote or opinion on any matter of any particular member of this Court, unless required to give evidence thereof by a Court of Law.

FORM OF AFFIRMATION

I, ..... do hereby, solemnly, sincerely and truly declare and affirm that I will, to the best of my ability, carry out the duties of Law Officer in accordance with the Coast Guard Act, 1978 and the rules made thereunder without partiality, favour or affection, and I do further solemnly, sincerely, and truly declare and affirm, that I will not, on any account, at any time, whatsoever, disclose or discover the vote or opinion, on any matter of any particular member of this Court, unless, required to give evidence thereof by a court of law.

**(B) OFFICER ATTENDING FOR THE PURPOSE OF INSTRUCTION**

FORM OF OATH

I, ..... swear by Almighty God that I will not on any account; at any time whatsoever disclose or discover the vote or opinion of any particular member of this Court unless required to give evidence thereof by a court of law.

FORM OF AFFIRMATION

I, ..... do solemnly, sincerely and truly, declare and affirm that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this Court unless required to give evidence thereof by a court of law.

**(C) SHORTHAND WRITER**

FORM OF OATH

I,..... swear by Almighty God that I will truly take down to the best of my power, the evidence to be given before this Court and such other matters as I may be required to take down and will, when required, deliver to the Court a true transcript of the same.

FORM OF AFFIRMATION

I, ..... do solemnly, sincerely and truly, declare and affirm, that I will truly take down to the best of my power the evidence to be given before this Court and such other matters as I may be required to take down and will, when required, deliver to the Court a true transcript of the same.

## (D) INTERPRETER

### FORM OF OATH

I ,..... swear by Almighty God that I will faithfully, interpret and translate, as I shall be required to do, touching the matter before this Court.

### FORM OF AFFIRMATION

I , ..... do solemnly, sincerely and truly, declare and affirm that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this Court.

**61. Objection to interpreter or shorthand writer.** - A person shall not be sworn or affirmed as an interpreter or shorthand writer, if he is objected to by the accused unless the court after hearing the accused and the prosecutor disallows such objection as being unreasonable.

**62. Arraignment.** - (1) When the court and the Law Officer have been sworn, the charge shall be read to the accused and he shall be asked whether he pleads guilty or not guilty to the charge or charges.

(2) If there is more than one charge against the accused he shall be required to plead separately to each charge.

(3) If there is more than one charge against the accused before the court, the court shall proceed with the charges in the first of such charge-sheets and shall announce its finding thereon and if the accused has pleaded guilty comply with rule 69 before it arraigns him upon the charges in any subsequent charge-sheet.

**63. Plea to jurisdiction.** - (1) The accused, before pleading to the charge may offer a plea regarding the jurisdiction of the court, and in such case,

(a) the accused may adduce evidence in support of the plea and the prosecutor may adduce evidence in answer thereto; and

(b) the prosecutor may address the court in answer to the plea and the accused may reply to the prosecutor's address.

(2) If the court allows the plea it shall adjourn and report to the Convening Authority.

(3) When the court reports to the Convening Authority under this rule, the Convening Authority shall dissolve the court.

**64. Objection to the charges.** - (1) An accused before pleading to a charge may object to it on grounds that it is not correct in law or is not framed in accordance with these rules and if he does so, the prosecutor may address the court in answer to the objection and the accused may reply to the prosecutor's address.

(2) If the court upholds the objection, it shall either amend the charge if permissible under rule 49 or adjourn and report to the Convening Authority;

Provided that if there is another charge sheet before the court, the court may, before adjourning under this rule, proceed with the trial on such other charge or other charge-sheet

(3) When the court reports to the Convening Authority under this rule, the Convening Authority shall if he approves the decision of the court to allow the objection;

- (i) dissolve the court; or
- (ii) where there is another charge or another charge-sheet before the court to which the objection does not relate and which the court has not tried, direct the court to proceed with the trial of such other charge or charge-sheet only; or
- (iii) amend the charge to which the objection relates if permissible under rule 50 and direct the court to try it as amended.

**65. Plea in bar of trial.** - (1) An accused before pleading to a charge may offer a plea that the trial is barred under section 51 or section 68. If he does so;

- (a) the accused may adduce evidence in support of the plea and the prosecutor may adduce evidence in answer thereto, and
- (b) the prosecutor may address the court in answer to the plea and the accused may reply to the prosecutor's address.

(2) If the court allows the plea, it shall adjourn and report to the Convening Authority-

Provided that if there is another charge or another charge-sheet before the court, the court may, before adjourning under this rule, proceed with the trial of such other charge, or other charge-sheet.

(3) When a court reports to the Convening Authority under this rule, the Convening Authority shall;

- (i) dissolve the court; or

- (ii) where there is another charge or another charge-sheet before the court to which the plea does not relate and which the court has not tried, direct the court to proceed with the trial of such other charge or charge-sheet only.

**66. Application for separate trial.** - (1) Where two to more accused are charged jointly, any one of the accused may, before pleading to the charge, apply to the court to be tried separately on the ground that he would be prejudiced in his defence if he was not tried separately.

(2) Where the accused makes such an application, the prosecutor may address the court in answer thereto and the accused may reply to the prosecutor's address.

(3) Where the court is of the opinion that the interests of justice so require, it shall allow the application and try separately the accused who made it.

**67. Application for trial on separate charge-sheet.** - (1) When a charge-sheet contains more than one charge, the accused may, before pleading to the charges apply to the court to be tried separately on any charge in the charge sheet on the ground that he would be prejudiced in his defence if he were not tried separately on that charge.

(2) Where the accused makes such an application, the prosecutor may address the Court in answer thereto and the accused may reply to the prosecutor's address.

(3) Where the Court is of the opinion that interests of justice so require, it shall allow the application and try the accused separately on the charge to which it relates as if that charge had been inserted in a separate charge-sheet.

**68. Pleading to the Charge.** - (1) After any plea under rules 63 and 65 have been dealt with, the accused shall be required subject to sub-rule (2) to plead either guilty or not guilty to each charge on which he is arraigned.

(2) Where a court is empowered by Section 83 to find an accused guilty of an offence other than that charged or guilty of committing the offence, in circumstances involving a less degree of punishment or where it could after hearing the evidence, make a special finding of guilty subject to exception or variation in accordance with rules the accused may plead guilty to such other offence, or to the offence charged as having been committed in the circumstances involving a less degree of punishment or to the offence charged subject to such exception or variations.

**69. Acceptance of plea of guilty.** - (1) Where an accused pleads guilty to a charge under either sub-rule (1) or sub-rule (2) of rule 68 the Law Officer shall, before the court decides to accept the plea, explain to the accused the nature of the charge and the general effect of his plea and in particular the difference in procedure when an accused pleads guilty and when an accused pleads not guilty.

(2) A court shall not accept a plea of guilty under either sub-rule (1) or of sub-rule (2) of rule 68, if —

- (a) the court is not satisfied that the accused understands the nature of the charge or the effect of his plea; or
  - (b) the presiding officer having regard to all the circumstances, considers that the accused shall plead not guilty; or
  - (c) the accused is liable, if convicted, to be sentenced to death;
- (3) (a) In the case of a plea of guilty under rule 70 court shall not accept the plea unless the Convening Authority concurs and it is satisfied of the justice of such course;
- (b) The concurrence of the Convening Authority may be signified by the prosecutor.

(4) When a plea of guilty under either sub-rule (1) or sub-rule (2) of rule 68, has been accepted it shall record a finding of guilty in respect thereof.

**70. Plea of alternative charge.** - (1) When an accused pleads guilty to the first of two or more alternative charges, the court, if it accepts the accused's plea of guilty, shall record a finding of guilty in respect of the first charge and the prosecutor shall withdraw any alternative charge before the accused is arraigned on it.

(2) When an accused pleads guilty to one of two or more charges which are laid in the alternative other than the first of such charges, the court may :

- (a) Proceed as if the accused had pleaded not guilty to all the charges; or
  - (i) with concurrence of the Convening Authority (which may be signified by the prosecutor) record a finding of guilty on the charge to which the accused has pleaded guilty and a finding of not guilty on any alternative charge which is placed before it in the charge-sheet;
  - (ii) where the court records such findings the prosecutor shall before the accused is arraigned on it withdraw any charge which is alternative to the charge of which the court has found the accused guilty and which is placed after it in the charge-sheet.

**71. Order of trial in the case of plea of guilty and not guilty.** - (1) After the court has recorded a finding of guilty, if there is no other charge in the same charge-sheet to which the accused has pleaded not guilty to a charge in that charge-sheet, it shall proceed with the trial as directed by rule 72.



(2) Where there is another charge in the charge-sheet to which the accused has pleaded not guilty or there is another accused who has pleaded not guilty to a charge in that charge-sheet, the court shall not comply with rule 70 until after it has dealt with such other charge or tried such other accused and has announced and record its finding in respect thereof.

**72. Procedure on plea of guilty.** - (1) When the court has recorded a finding of a guilty in respect of a charge to which an accused has pleaded guilty the prosecutor shall read the record or abstract of evidence to the court or inform the court of the facts contained therein.

(2) Where there is no record or abstract of evidence the court shall record in accordance with these rules sufficient evidence to enable it to determine the sentence.

(3) After sub-rules (1) and (2) have been complied with, the accused may —

(a) adduce evidence of character and in mitigation of punishment,

(b) address the court in mitigation of punishment.

(4) After sub-rule (3) has been complied with the court shall proceed as directed in rule 95.

**73. Change of plea.** - (1) An accused who has pleaded not guilty may at any time before the court closes to deliberate on its finding withdraw his plea of not guilty and substitute a plea of guilty (including a plea of guilty under rule 70) and in such a case the court shall, if it is satisfied that it can accept the accused's changed plea under these rules, record a finding in accordance with accused's changed plea and so far as is necessary proceed as directed by rule 72.

(2) Where at any time during the trial it appears to the court that an accused who has pleaded guilty does not understand the effect of his plea or the nature of the charge the court shall enter a plea of not guilty and proceed with the trial accordingly.

(3) When the court records a plea of not guilty in respect of any charge under sub-rule (2), it shall, if there was a charge laid in the alternative thereto which the prosecutor withdrew under rule 70 reinstate such alternative charge, arraign the accused thereon and proceed with the trial as if it had never been withdrawn.

**74. Procedure on plea of not guilty.** - After a plea of not guilty to any charge has been recorded,

(a) The court shall ask the accused whether he wishes to apply for an adjournment on the ground that any of these rules relating to procedure before trial have not

been complied with and that he has been prejudiced thereby or on the ground that he has not had sufficient opportunity for preparing his defence;

(b) Where the accused applies for an adjournment,

- (i) the accused may adduce evidence in support of his application and the prosecutor may adduce evidence in answer thereto; and
- (ii) the prosecutor may address the court in answer to the application and the accused may reply to the prosecutor's address;

(c) The court may grant an adjournment if it thinks the interests of justice so require.

**75. Opening address.** - (1) The prosecutor may if he so desire and shall if required by the court make an opening address explaining the charge and the nature and general effect of the evidence which he proposes to adduce;

(2) The witness for the prosecution shall then be called and give their evidence.

**76. Additional witnesses.** - Where the prosecutor intends to adduce evidence which is not contained in any record or abstract of evidence given to the accused, notice of such intention together with the particulars of the evidence shall, when practicable, be given to the accused within a reasonable time before the evidence is adduced. If such evidence is adduced without such notice or particulars having been given, the court may if the accused so desires either adjourn after receiving the evidence or allow any cross examination arising out of that evidence to be postponed, and the court shall inform the accused of his right to apply for such an adjournment.

**77. Dropping witness.** - The prosecution shall not be bound to call all the witnesses against the accused whose evidence is contained in the record or abstract of evidence nor a witness when he has notified the accused that he intends to call under rule 76, but if the prosecutor does not intend to call such witness to give evidence, he shall either tender him for cross examination by the accused, or give the accused reasonable notice that he does not intend to call the witness and that the accused will be allowed to communicate with him to call him as a witness for the defence, if he so desires and if the witness is available.

**78. Withdrawal of witness.** - During a trial a witness other than the prosecutor or accused shall not except by leave of the court be in court while not under examination, and while he is under examination a discussion arises as to whether a question is to be allowed or not with regard to his evidence, the court may direct the witness to withdraw during such discussions.

**79. Examination of witnesses.** - (1) A witness may be examined by the person calling him and may be cross-examined by the opposite party to the proceedings and on the

conclusion of any such cross-examination may be re-examined by the person who called him on matters arising out of the cross-examination.

(2) (a) The person examining a witness shall put his question to his witness orally and unless an objection is made by the witness, the court, the Law Officer, the prosecutor or by the accused, the witness shall reply forthwith.

(b) Where such an objection is made the witness shall not reply until the objection has been disposed of.

(3) The court may allow the cross-examination or re-examination of a witness to be postponed.

(4) Before the examination of a witness, he shall be administered an oath or affirmation in the following form or in such other form to the same purport as the court ascertains to be in accordance with his religion or otherwise binding on his conscience.

#### *FORM OF OATH*

I, \_\_\_\_\_ swear by Almighty God that whatever I shall state shall be the truth, the whole truth and nothing but the truth.

#### *FORM OF AFFIRMATION*

I, \_\_\_\_\_ do solemnly, truly and sincerely declare and affirm that whatever I shall state, shall be the truth, the whole truth and nothing but the truth.

**80. Questioning by the court.** - (1) The Presiding Officer, the Law Officer and any member of the court may put questions to a witness.

(2) Upon any such question being answered the prosecutor and the accused may put to the witness question arising from the answer which he has given as the court may think proper.

**81. Reading over of evidence.** - (1) (a) The record which has been made of the evidence given by a witness shall be read back to him before he leaves the court and when this is done he may ask for the record to be corrected or explain the evidence which he has given.

(b) Where any such correction is made or explanation given, the prosecutor and the accused may put such questions to the witness respecting the correction or explanation as seem proper to the court.

(2) When a shorthand writer is employed, it shall not be necessary to comply with sub-rule (1) if in the opinion of the court and the Law Officer, it is unnecessary to do so:

Provided that if any witness so demands, sub-rule (1) shall be complied with.

**82. Calling or recalling witness by the court.** - (1) (a) The court may at any time before it closes to deliberate on its finding or before the Law Officer begins to sum up, call a witness or recall a witness, if in the opinion of the Court it is in the interest of justice to do so.

(b). Where the court calls a witness or recalls a witness under this rule, the prosecutor and the accused may put such questions to the witness as the court may think proper.

(2) The prosecutor and the accused may, at any time before the court closes to deliberate on its finding or before the Law Officer begins to sum up recall a witness by leave of the court and the prosecutor and the accused may put such questions to the witness as the court may think proper.

**83. Submission of no case to answer and stopping of cases.** - (1) (a) At the close of the case for the prosecution the accused may submit to the court in respect of any charge that the prosecution has failed to establish a prima-facie case for him to answer and that he should not be called upon to make his defence to that charge.

(b) Where the accused makes such submission the prosecutor may address the court in answer thereto and the accused may reply to the prosecutor's address.

(2) The court shall not allow the submission unless it is satisfied that ;

(a) the prosecution has not established a prima-facie case on the charge as laid ;  
and

(b) it is open to it on the evidence to make a special finding under either section 83 or sub-rule (3) of rule 93.

(3) (a) Where the court allows the submission, it shall find the accused not guilty of the charge to which it relate and finding shall forthwith be announced in open court;

(b) where the court disallows the submission it shall proceed with the trial of the offence as charged.

(4) The court may, of its own motion, after the close of the hearing of the case for the prosecution, and after hearing the prosecutor find the accused not guilty of the charge and the finding shall forthwith be announced in open court.

**84. Evidence on navigational matters.** - Documents to be made available in navigational cases: —

(1) All trials at which evidence is to be given on the navigation of one of the ships, 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;
- (i) the engine room log book;
- (j) the Officer of the Watch work book;
- (k) the echo sounder log book;
- (l) the Navigating Yeoman's note book;
- (m) the Navigating Officer's night order;
- (n) the Navigating Officer's sight forms: and
- (o) the wheel and engine order book.

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

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

(3) The Presiding Officer shall endorse such reports approved if the court concurs, and if not, and expressed its dissent shall be added, signed by the Presiding Officer, showing in what respects and for what reasons 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 not in the log book.

(5) The fate 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 form set out in Appendix VII 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-rule (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 rule.

**85. Absence of documents.** - (1) Should the absence of any of the documents mentioned in rule 84 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 rule 84 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.

**86. Navigation Direction Officer examination and cross-examination.** - The examination and cross-examination of the Navigation Direction Officer or other competent officers who have been directed to perform the duty mentioned in rule 84 shall be limited to ascertaining the accuracy or inaccuracy of the document laid before the court.

**87. Case for the defence.** - (1) After the close of the case for the prosecution, the Law Officer shall explain to the accused that :-

- (a) if he wishes, he may give evidence on oath as a witness or make a statement without being sworn but that he is not obliged to do either ;
- (b) if he gives evidence on oath, he shall be liable to be cross-examined by the prosecutor and to be questioned by the court.

(2) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the court may, at any stage of the trial, without previously warning the accused, put such question to him as the court considers necessary, and shall for the purpose aforesaid, question him generally on the case after the witness for the prosecution have been examined and before he is called on for his defence.

(3) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such trial and put in evidence for or against him in any other inquiry or trial for any other offence which such answers may tend to show he has committed.

(5) If the accused intends to call a witness to the facts of the case other than himself, he may make an opening address outlining the case for the defence before the evidence for the defence is given.

**88. Witness for defence.** - (1) After rule 87 has been complied with, the witnesses for the defence shall be called to give their evidence.

(2) The provisions of rules 79, 80, and 81 shall apply to the witnesses for the defence as they apply to the evidence of witnesses for the prosecution.

**89. Witness in reply.** - After the witnesses for the defence have given their evidence, the prosecutor may by leave of the court call a witness or recall to give evidence on any matter raised by the accused in his defence which the prosecution could not properly have mentioned to the court before the accused disclosed his defence or which the prosecutor could not reasonably have foreseen.

**90. Closing address.** - (1) After all the evidence has been given the prosecutor and the accused may each make a closing address to the court.

(2) The accused shall be entitled to make his closing address after the closing address by the prosecutor unless accused has called a witness to facts other than himself in which case, the prosecutor shall be entitled, subject to sub-rule (3) and (4) to make his closing address after the accused has made the closing address.

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

(3) Where two or more accused are tried jointly, anyone of them who has called no such witness shall be entitled to make his closing address after the prosecutor has made the closing address.

(4) (a) Where two or more accused are represented by the same defending officer or counsel he may make one closing address only;

(b) Where any one of the accused for whom he appears has called no witnesses to facts other than himself such defending officer or counsel shall be entitled to make his closing address after the prosecutor has made the closing address.

**91. Summing up by Law Officer.** - After the closing address, the Law Officer shall sum up the evidence and advise the court on the law relating to the case in open court.

**92. Deliberation on finding.** - (1) The court shall deliberate on its finding in closed court in the presence of the Law Officer.

(2) The opinion of each member of the court as to the finding shall be given by word of mouth on each charge separately starting with the junior most rank.

**93. Record and announcement of findings.** - (1) The finding on every charge upon which the accused is arraigned shall be recorded and except as provided in these rules shall be recorded simply as a finding of "Guilty" or of "Not guilty".

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

(2) Where the court is of opinion as regards any charge that the facts proved do not disclose the offence charged or any offence of which he might under the Act legally be found guilty on the charge as laid, the court shall acquit the accused of that charge.

(3) Where the court is of the opinion as regards any charge that the facts which it finds to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, it may, instead of a finding of "not guilty" record a special finding.

(4) The special finding may find the accused guilty on a charge subject to the statement of exceptions or variation specified therein.



(5) Where there are alternative charges, and the facts proved appear to the court not to constitute the offence mentioned in any of those alternative charges, the court shall record a finding of "not guilty", on that charge.

(6) The court shall not find the accused guilty on more than one of two or more charges laid in the alternative, even if conviction upon one charge necessarily connotes guilty upon the alternative charge or charges.

(7) The finding on each charge shall be announced forthwith in the open court.

**94. Procedure on Acquittal.** - If the finding on all the charges is "Not guilty" the Presiding Officer shall affix his signature date on the finding and such signatures shall authenticate the whole of the proceedings and the proceedings upon being signed by the Law Officer shall at once be transmitted to the Convening Authority.

**95. Procedure on Conviction.** - (1) If the finding on any charge is "guilty" then for the guidance of the court in determining its sentence, the court before deliberating on the sentence, shall, wherever possible, take evidence of and record the general character, age, service, rank, any recognised acts of gallantry or distinguished conduct of the accused, any previous convictions of the accused either by a Coast Guard Court or a Criminal Court and any decoration or reward, of which he may be in possession or to which he is entitled.

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

(3) The accused may cross-examine any such witness and may call witnesses to rebut such evidence and if the accused so requests the service book or a duly certified copy of the material entries therein, shall be produced and if the accused alleges that the summary is in any respect not in accordance with the service book, or such certified copy, as the case may be, the court shall compare the summary with service book or copy and if it finds that it is not in accordance therewith, shall cause the summary to be corrected or the objection of the accused to be recorded.

(4) When all the evidence on the above matter has been given, the accused may address the court thereon and in mitigation of the punishment.

**96. Sentence.** - The court shall award a single sentence in respect of all the offences of which the accused is found guilty, and such sentence shall be deemed to be awarded in respect of which it can be legally given and not to be awarded in respect of which it cannot be legally given.

**97. Announcement of sentence, signing and transmission of Proceedings.** - The sentence shall be announced forthwith in open court. Upon the court awarding the sentence, the Presiding Officer shall affix his signature and date the sentence and such signatures shall authenticate the whole of the proceedings and the proceedings upon being signed by the Law Officer shall at once be transmitted to the Convening Authority.

## **PROCEDURE OF COAST GUARD COURTS AND INCIDENTAL MATTERS**

**98. Seating of Members.** - The members of a Coast Guard Court shall take their seats according to their seniority.

**99. Responsibility of Presiding Officer.** - (1) The Presiding Officer together with the Law Officer is responsible for the trial being conducted in proper order, and in accordance with the Act, rules made there under and in a manner befitting a court of justice.

(2) It is the duty of the Presiding Officer to see that the accused has a fair trial, and that he does not suffer any disadvantage in consequences of his position as a person under trial, or of his incapacity to examine or cross-examine witnesses or otherwise.

**100. Power of Court over address of prosecutor and accused.** - (1) It is the duty of the prosecutor to assist the court in the administration of justice, to behave impartially, to bring the whole of the transaction before the court and not to take any unfair advantage of, or suppress any evidence in favour of the accused.

(2) The prosecutor may not refer to any matter, not relevant to the charge or charges, than before the court and it is the duty of the court to stop him from so doing and also to restrain any undue violence or want of fairness or moderation on the part of the prosecutor.

(3) The court shall give reasonable facilities to the accused, in making his defence the accused must abstain from any remarks contemptuous or disrespectful towards the court, and from coarse and insulting language towards others, but he may for the purpose of his defence impeach the evidence and charge other persons with blame and even criminality, subject, if he does so, to any liability which he may thereby incur. The court may caution the accused as to the irrelevance of his defence, but shall not, unless in special cases stop his defence solely on ground of such irrelevance.

**101. Sitting in Closed Court.** - (1) A court shall, where it is so directed by these rules, and may in any other case on any deliberation amongst the members, sit in closed court.

(2) No person shall be present in closed court except the members of the court, the Law Officer and any other officer under instruction.

(3) For the purpose of giving effect to the foregoing provisions of this rule, a Court may either retire or cause the place where it sits to be cleared of all other persons not entitled to be present.

(4) Except as hereinafter mentioned, all proceedings including the view of any place shall be in open court and in the presence of the accused subject to sub-rule (5).

(5) The court shall have the power to exclude from the court any witness who has yet to give evidence or any other person, other than the accused, who interferes with its proceedings.

**102. Continuity of trial and Adjournment of Court.** - (1) When a court is once assembled and the accused has been arraigned, the court shall continue the trial from day to day in accordance with these rules unless it appears to the court that an adjournment is necessary for the ends of justice or that such continuance is impracticable.

(2) (a) A court may from time to time adjourn its proceedings and meet at such place as may be convenient, and

(b) Where necessary, visit the scene of occurrence.

(3) A court in the absence of a Law Officer shall not proceed and shall adjourn.

(4) If the time to which an adjournment is made is not specified, the adjournment shall be until further orders from the Presiding Officer, and, if the place to which the adjournment is made is not specified, the adjournment shall be to the same place or to such other place as may be specified in further orders from the presiding officer.

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

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

**103. Suspension of trial.** - Where, in consequence of anything arising while the court is sitting, the court is unable by reasons of dissolution as specified in section or otherwise, to continue the trial, the presiding officer or in his absence the senior member present, shall immediately report the facts to the Convening Authority.

**104. Proceedings on death or illness of accused.** - In case of the death of the accused or of such illness of the accused as renders it impossible to continue the trial, the court shall ascertain the fact of the death or illness by evidence and record the same and adjourn and transmit the proceedings to the convening authority.

**105. Death, retirement or absence of Presiding Officer.** - In the case of the death, retirement on challenge or unavoidable absence of the presiding officer the next senior officer shall take the place of the presiding officer and the trial shall proceed if the court is still composed of not less than the minimum number of officers required by the Act.

**106. Presence throughout of all members of Court.** - A member of a court who has been absent while any part of the evidence on the trial of an accused person is taken, shall take no further part in the trial by that court of that person, but the court will not be affected unless it is reduced below the legal minimum.

**107. Taking of opinions of members of Court.** - (1) Every member of a court must give his opinion by word of mouth on every question which the court has to decide, and must give his opinion as to the sentence notwithstanding that he has given his opinion in favour of acquittal.

(2) The opinions of the members of the court shall be taken in succession, beginning with the member junior most in seniority.

**108. Procedure on incidental question.** - If any objection is raised on any matter of law, evidence or procedure, by the prosecutor or by or on behalf of the accused during the trial, the prosecutor or the accused or counsel on the defending officer, as the case may be, shall have a right to answer the same and the person raising the objection shall have right to reply.

**109. Evidence when to the translated.** - When any evidence is given in a language which any of the officers composing the court, the accused or the Law Officer does not understand, it shall be translated into a language which is understood by all concerned.

**110. Record in proceedings of transactions of a Coast Guard Court.** - (1) At a Court the Law Officer shall record or cause to be recorded all transactions of the Court, and shall be responsible for the accuracy of the record (in these rules referred to as the proceedings); and if the Law Officer is called as a witness by the accused, the Presiding Officer shall be responsible for the accuracy of the record in the proceedings of the evidence of the Law Officer.

(2) The evidence shall be taken down in a narrative form in as nearly as possible the words used, but in any case where the prosecutor, the accused, the Law Officer or the Court considers it material, the question and answer shall be taken down verbatim.

(3) Where an objection has been taken to any question or to the admission of any evidence or to the procedure of the Court, such objection shall if the prosecutor or

accused so requests or the Court thinks fit, be entered upon the proceedings together with the grounds of the objection and the decision of the Court thereon.

(4) Where any address by, or on behalf of the prosecutor or the accused, is not in writing, it shall not be necessary to record the same in the proceedings further or otherwise than the Court thinks proper, except that :

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

(b) the court shall also record any particular matters in the address by or on behalf of, the prosecutor or the accused which the prosecutor or the accused, as the case may be, may require.

(5) The Court shall not enter in the proceedings any comment or anything not before the Court, or any report of any fact not forming part of the trial, but if any such comment or report seems to the Court necessary, the Court may forward it to the proper authority in a separate document, signed by the presiding officer.

**111. Custody and Inspection of Proceedings.** - The proceedings shall be deemed to be in the custody of the Law Officer but may, with proper precaution for their safety, be inspected by the member of the Court, the prosecutor and the accused, at all reasonable times before the Court is closed to consider the finding.

**112. Transmission of Proceedings.** - (1) The proceedings shall, at once, be sent by the person having the custody thereof to such person as may be directed by the order convening the court, or, in default of any such direction, to the convening authority.

(2) Sufficient copies of the proceedings shall be made to enable one to be supplied to each of the accused in the event of an application being made therefore.

**113. Report by the Presiding Officer to Convening Authority.** - As soon as the Court has been dissolved, the Presiding Officer shall inform the Convening Authority the findings and the sentence, punishment awarded by the Court to the accused.

**114. Defending Officer, Friend of Accused and Counsel.** - (1) At any Coast Guard Court, an accused person may be represented by a counsel or by any officer subject to the Act who shall be called the "Defending Officer" or assisted by any person whose services he may be able to procure and who shall be called the "Friend of the Accused".

(2) The defending Officer shall have the same rights and duties as pertain to a counsel under these rules and shall be under the same like obligation.

(3) The friend of the accused may advise the accused on all points and suggest the questions to be put to the witnesses, but he shall not examine or cross-examine the witnesses or address the Court.

**115. Requirements for Appearance of Counsel.** - (1) An accused person intending to be represented by a counsel shall give to his Commanding Officer or to the Convening Authority at the earliest a practicable notice of such intention, and if no sufficient notice has been given, the Court may, if it thinks fit on the application of the prosecutor, adjourn to enable him to obtain a counsel on behalf of the prosecutor at the trial.

(2) Where the Convening Authority so directs, counsel may appear along with the prosecutor, but in that case, unless the notice referred in sub-rule (1) has been given by the accused, notice of the direction for counsel to appear shall be given to the accused at such time (not in any case less than seven days) before the trial as would in the opinion of the Court, have enabled the accused to obtain counsel to assist him at the trial.

(3) The counsel who appears before a Court on behalf of the prosecutor or accused, shall have the same rights, as the prosecutor or the accused, for whom he appears, to call, and orally examine, cross examine, and re-examine witnesses to put in any plea and to inspect the proceedings and shall have the right otherwise to act in or the course of the trial in place of the person on whose behalf he appears, and he shall comply with these rules as if he were that person and in such a case that person shall have no right himself to do any of the aforesaid matters except as regards the statement allowed by sub-rule (2) of rule 87 and sub-rule (4) of rule 95 or except so far as the Court permits him so to do.

**116. Disqualification of Law Officer.** - An officer who is disqualified for sitting on a Court , shall be disqualified for acting as a Law Officer at that Court.

**117. Powers and Duties of Law Officer.** - (1) The Law Officer shall —

- (a) give his opinion on any question of Law relating to the charge (s) or trial, whenever so required by the Court, the prosecutor or the accused.
- (b) inform the Court of any irregularity or other infirmity in the proceedings.
- (c) inform the Convening Authority and the Court of any infirmity or defect in the charge or in the constitution of the Court.
- (d) sum up the evidence and give his opinion on any question of law, before the Court proceeds to deliberate upon its findings.

(2) It shall be duty of the Law Officer to ensure that the accused does not suffer any disadvantage in consequence of his position as such, or because of ignorance or incapacity to examine or cross-examine the witnesses and for this purpose the Law

Officer may with the permission of the Court, call witnesses and put questions to them, which appear to him necessary or desirable.

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

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

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

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

**118. Duties of the officer of the Court.** - The officer of Court appointed under sub-rule (1) of rule 54 shall perform the following duties namely:—

- (a) He shall be responsible for making due arrangements for the sitting of the Court under the directions of the Law Officer and shall obtain from the proper source the furniture and fittings and supply stationery required for use of the Court.
- (b) He shall muster the witnesses outside the Court room and as soon as the Coast Guard Court is assembled he shall report to the Presiding Officer that they are in attendance.
- (c) When so directed by the Presiding Officer, he shall cause the accused to be brought in and to admit the prosecutor and audience.
- (d) He shall ensure that no witness enters the Court unless called upon to give evidence, except by the permission of the Court.
- (e) He shall ensure that witnesses leave the court as soon as they have been examined and are not allowed to communicate with other witnesses, who have yet to give evidence.
- (f) He shall ensure that no witness, duly summoned, leaves the vicinity of the Court.
- (g) When the Court is cleared for deliberations, he shall ensure that no one is allowed to remain within the Court's vicinity.

**119. Findings of Insanity.** - Where the Court finds either that the accused by reason of unsoundness of mind is incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the presiding officer shall affix his signature and the date on the findings which shall also be signed by the Law Officer and thereupon the proceedings shall at once be transmitted to the convening authority or in the case of summary trial to the Inspector General or Deputy Inspector General empowered to approve them.

**120. Preservation of Proceedings.** – (1) The proceedings of every Coast Guard Court shall, after promulgation, be forwarded to the office of the Chief Law Officer and be preserved there for not less than seven years, or until the sentence awarded by the Court has expired, whichever is later.

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

**121. Right of person tried to copies of proceedings.** - Every person tried by a Coast Guard Court shall be entitled to obtain on demand at any time after the verdict of the court is announced and before the proceedings are destroyed, from the Chief Law Officer a copy thereof.

**122. Copy of proceeding not to be given in certain cases.** - Notwithstanding anything contained in rule 121, if the Central Government is satisfied for reasons to be recorded that it is against the interests of the Security of the State or friendly relations with foreign states to supply a copy of the proceedings or any part thereof under the said rule, the accused shall not be furnished with such a copy :

Provided that if the Central Government is satisfied that the person demanding the copy is desirous of submitting a petition in accordance with the Act or instituting any action in the court of law in relation to the findings or sentence by a Court it shall permit inspection of the proceedings by such person or his legal Adviser if any, on the following conditions : —

- (a) The inspection shall be made at such time and such places as the Central Government or any authority authorised by it may direct, and
- (b) the person allowed to inspect the proceedings shall before such inspection, furnish : —



- (i) An undertaking, in writing, that he shall not make copies of the proceedings or any part thereof and that the information or documents contained in such proceedings shall not be used by him, for the purpose of submitting a petition in accordance with the Act or instituting an action in a Court of Law in relation to the said finding or sentence; and
- (ii) A certificate that he is aware that he may render himself liable to prosecution under sections 3 and 5 of the Indian Official Secrets Act, 1923 (19 of 1923) if he commits any act specified in the said sections in relation to the documents or information contained in the said proceedings.

**123. Loss of Proceedings.** - If the original proceedings or any part thereof are lost, and there is sufficient evidence of the charge, findings, sentence and transactions of the Court, that evidence shall be a valid and sufficient record of trial for all purposes.

**124. Offences by witnesses and others.** - When a court is of the opinion that there is ground for inquiring into any offence specified in Section 40 and committed before it or brought to its notice in the course of proceedings, which would if done by a person subject to the Act, have constituted such an offence such court may proceed as follows, that is to say :—

- (a) If the person who appears to have committed the offence is subject to the Act, the Court may bring his conduct to the notice of his Commanding Officer;
- (b) If the person who appears to have done the act is amenable to Army, Naval, Air Force, Border Security Force or any other armed forces laws, may bring his conduct to the notice of the proper Army, Naval, Air Force, Border Security Force or the concerned other armed force authority, as the case may be.
- (c) In other cases, the officer who summoned the witness to appear or the Presiding Officer may forward a written complaint to the nearest Judicial Magistrate of the First Class or Metropolitan Judicial Magistrate having jurisdiction, and in the case of acts which would if done by a person subject to this Act have as to an offence under clause (e) of Section 40 the Court after taking preliminary inquiry that may be necessary may send the case to the nearest Judicial Magistrate of the First Class having jurisdiction for inquiry or trial in accordance with Section 340 of the Code of Criminal Procedure 1973 ( Act 2 of 1974).

**APPENDIX I  
( See rule 14)**

Form of Delay Report

NO. \_\_\_\_\_

CGS \_\_\_\_\_

Date \_\_\_\_\_

To

\_\_\_\_\_  
\_\_\_\_\_

1 Rank \_\_\_\_\_ Name \_\_\_\_\_ No \_\_\_\_\_

2. Offence \_\_\_\_\_

3. Date of Offence \_\_\_\_\_

4. Date offence was discovered \_\_\_\_\_

5. Date of (open/close) arrest \_\_\_\_\_

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

7. Record of evidence made on \_\_\_\_\_

(if not recorded, reasons)

8. Application for trial made on \_\_\_\_\_

9. Date due to be tried \_\_\_\_\_

10. Reasons for delay \_\_\_\_\_

(Commanding Officer)

Copy to :-

1. Commander, Coast Guard Region-----
2. Chief Law Officer, Coast Guard Headquarter

**APPENDIX II  
(Rule15)**

(Request/Representation of person/persons under Arrest )

<b>Serial No.</b>	<b>Date</b>	<b>Name of the accused</b>	<b>Name of the officer/ Subordinate Officer to whom the request or representation made</b>	<b>Particulars of the request or representation</b>	<b>Order of the Commanding Officer</b>	<b>Signature and date of the officer or subordinate officer who conveys the orders of the Commanding Officer to the accused</b>	<b>Remarks</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>

**APPENDIX IIA**

[see rule 16(1)(b)]

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

To

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Sir,

Whereas I have been informed that a criminal case under Section \_\_\_\_\_ has been instituted in your Court against \_\_\_\_\_ (a) \_\_\_\_\_ of the Coast Guard \_\_\_\_\_ (b) \_\_\_\_\_. The said (Name & Rank) is at present serving under my command and is liable to be tried under the Coast Guard Act, 1978, for the said offence.

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

Yours Faithfully

\_\_\_\_\_

Director-General/Inspector-General/

Deputy Inspector- General/

Commanding Officer

- (a) Name of the accused
- (b) Unit of the accused

**APPENDIX III A  
(Rule18)**

Offence Report

Charge/Charges against No. \_\_\_\_\_ Rank \_\_\_\_\_ Name \_\_\_\_\_

<b>Place and date of offence</b>	<b>Particulars of offence</b>	<b>Plea</b>	<b>Name of witness</b>	<b>Punishment awarded</b>	<b>Signature of officer by whom awarded and date of award</b>	<b>Remarks</b>
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1	2	3	4	5	6	7
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Signature of the Commanding Officer

CGS \_\_\_\_\_

Date \_\_\_\_\_

**APPENDIX III B  
(Rule20)**

Punishment Approval Form

CGS \_\_\_\_\_

Dated \_\_\_\_\_

No. \_\_\_\_\_

For \_\_\_\_\_

(Here specify punishment for which approval will be required).

\_\_\_\_\_

Whereas

Name \_\_\_\_\_ Rank \_\_\_\_\_

No. \_\_\_\_\_

Good Conduct Medal \_\_\_\_\_

Good Conduct Badges \_\_\_\_\_

Date of Birth \_\_\_\_\_

Date of entry into CG Service \_\_\_\_\_

Date of Joining CGS \_\_\_\_\_

Character assessed to date \_\_\_\_\_

was charged for that he did (here insert particulars of offence/offences starting with the date of offence in each case)

AND WHEREAS I did, on the \_\_\_\_\_ day of \_\_\_\_\_ personally and publically, in the presence of the complainant and the accused investigated the matter and whereas the accused pleaded guilty/not guilty to the charge/charges.

Having heard the evidence of \_\_\_\_\_ in support of the charge/ charges as well as what the accused has to offer in his defence and the evidence of

\_\_\_\_\_ whom he called on his behalf, I consider the charge/charges 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 particulars of punishment (s)]

Given under my hand on board CGS/ Establishment \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 198\_.

Signature and Rank of  
the Commanding Officer

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#### SUBMISSION TO APPROVING AUTHORITY

CGS \_\_\_\_\_

Dated \_\_\_\_ 198 \_\_\_\_

Sir,

I beg to submit for your approval the following sentence/sentences to be awarded to the aforesaid accused : —

2. The accused's service certificates, conduct sheet and record or abstract of evidence are annexed herewith.

Signature \_\_\_\_\_

Rank \_\_\_\_\_

#### DECISION OF THE APPROVING AUTHORITY

Signature \_\_\_\_\_

Rank \_\_\_\_\_

Date \_\_\_\_\_

Commanding Officer

\_\_\_\_\_

\_\_\_\_\_

Read to the accused this \_\_\_\_\_ day of \_\_\_\_\_ 198\_\_\_\_\_

Signature \_\_\_\_\_

Rank \_\_\_\_\_

Appointment \_\_\_\_\_



**APPENDIX IV  
(Rule27)**

Form of Application for a Coast Guard Court

Coast Guard \_\_\_\_\_

Station \_\_\_\_\_ Date \_\_\_\_\_

APPLICATION FOR A COAST GUARD COURT

Sir,

I have the honour to submit charge (s) against No. \_\_\_\_\_ Rank \_\_\_\_\_ Name \_\_\_\_\_ of the CGS \_\_\_\_\_ under my command, and request you to accord sanction and convene a Coast Guard Court.

The case was investigated by (a) \_\_\_\_\_

The accused is now at \_\_\_\_\_ I enclose the following documents :-

1. Charge Sheet (\_\_\_\_\_ copies) (b)
2. Record or abstract of evidence original (c) and 5 copies.
3. Original exhibits (d).
4. Correspondence (d).
5. Record of Service (d).
6. List of witnesses for the prosecution and defence (with present address) (d).
7. List of exhibits (e).
8. Statement by accused as to whether or not he desires to have an officer assigned by the convening officer represent him at the trial [Rule 55 (2)] (e).

Signature of  
Commanding Officer

The Convening Authority  
\_\_\_\_\_

Note

(a) Here insert

- (i) Officer who investigated the charges.
- (ii) Officer who made preliminary hearing into the case.
- (iii) Officer who made the Record of Evidence.
- (b) One copy each to Presiding Officer, Law Officer members, Prosecutor and the accused.
- (c) Original Record or abstract of Evidence to be sent to Prosecutor.
- (d) 3,4,5 and 6 to be returned to the Commanding Officer of the accused with the notice of trial.
  
- (e) 7 & 8 to be sent to the Presiding Officer.

## **APPENDIX IV-A**

(See rule 44A)

### **Form-I**

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

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

Rank, Name & Number of the accused : \_\_\_\_\_

Ship/Establishment : \_\_\_\_\_

Questions to the accused:

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

ANSWER

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

ANSWER

The charge-sheet is read over to the accused.

3. Are you guilty or not of the charge(s) against you which have just been read over to you ?

ANSWER

The record of evidence is read over or the authority dealing summarily with the case informs the accused that he has already perused it.

4. Do you wish to make a statement ?

ANSWER

( If the accused desires to make a statement, he should do so now)

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

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

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

ANSWER

FINDING : \_\_\_\_\_

AWARD : \_\_\_\_\_

SHIP/ESTABLISHMENT : \_\_\_\_\_

DATE : \_\_\_\_\_

Signature

## Form-II

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

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

Rank, Name & Number of the accused : \_\_\_\_\_

Ship/Establishment : \_\_\_\_\_

Questions to the accused:

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

ANSWER

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

ANSWER

The charge-sheet is read.

3. Are you guilty or not of the charge(s) against you which have just been read over to you ?

ANSWER

The witnesses give their evidence, accused be permitted to cross-examine.

4. Do you wish to make a statement ?

ANSWER

If the accused desires to make a statement, he should do so now.

5. Do you desire to call any witnesses ?

ANSWER

The accused makes his statement and his witnesses give evidence.

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

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

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

FINDING : \_\_\_\_\_

AWARD : \_\_\_\_\_

SHIP/ESTABLISHMENT : \_\_\_\_\_

DATE : \_\_\_\_\_

Signature

**APPENDIX V**  
**[Rule45 (2)]**

Specimen Charge sheet

The Accused, No. \_\_\_\_\_ Rank \_\_\_\_\_ Name \_\_\_\_\_ of Coast Guard \_\_\_\_\_ is charged with :—

Disobeying the Lawful command of his superior officer [**section20(2)** of Coast Guard Act 1978] in that he, at about \_\_\_\_\_ on \_\_\_\_\_ disobeyed the lawful command of his superior officer, Rank \_\_\_\_\_ Name \_\_\_\_\_ of \_\_\_\_\_ to fall-in for departmental instructions, by not falling in.

Commanding Officer

Coast Guard \_\_\_\_\_

Place \_\_\_\_\_

Date \_\_\_\_\_

To be Tried by Coast Guard Court

Signature \_\_\_\_\_  
(Officer authorized to convene a Court)

Place \_\_\_\_\_

Date \_\_\_\_\_

**APPENDIX VI**  
**[Rule54(a)]**

Form for Assembly of Coast Guard Court

Form of order for the Assembly of a Coast Guard Court under the Coast Guard Act,  
1978.

Ordered by \_\_\_\_\_  
(Place \_\_\_\_\_ Date \_\_\_\_\_)

No. \_\_\_\_\_

The detail of officers as mentioned below will assemble at \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_ for the purpose of trying by a Coast Guard Court  
the accused person (persons) named below.

The senior officer to sit as Presiding Officer

Members \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Waiting Members \_\_\_\_\_  
\_\_\_\_\_

Law Officer \_\_\_\_\_ is appointed as Law Officer.

Officer of the Court \_\_\_\_\_ is appointed as Officer of the Court.

Interpreter \_\_\_\_\_ is appointed as Interpreter

Prosecutor \_\_\_\_\_ is appointed as Prosecutor.

Accused \_\_\_\_\_ (Name, Rank, Number, Ship).

The accused will be warned, and all witnesses duly required to attend.

The proceedings (of which only four copies are required) will be forwarded to  
\_\_\_\_\_



Signed this the \_\_\_\_\_ day of \_\_\_\_\_ 198\_\_

Convening Officer

**APPENDIX VII**  
**[Rule84(6)]**

Order of the Court and Report of Navigation Direction at Trial on Navigational Charge

Trial by Coast Guard Court

Coast Guard Ship \_\_\_\_\_

ORDER OF THE COURT

To

\_\_\_\_\_ of C.G.S \_\_\_\_\_

\_\_\_\_\_ of C.G.S \_\_\_\_\_

You are handed herewith the following books, charts, etc. in connection with the stranding/ hazarding/ loss of C.G.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) Commanding Officer's night order book
- (h) Navigation Officer's night order book
- (i) Navigation 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 and 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 ascertained and correctly recorded in the ship's log.
- (c) Whether the rules with regard to sounding are 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 law engine room register, 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 signature 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 ground 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 the \_\_\_\_\_ day of \_\_\_\_ 198\_.

\_\_\_\_\_  
(Presiding Officer)

(This order is to be read to the officers in court and the 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) of officer(s) directed in accordance with rule 84(6).

\*\* Necessary details to be inserted by the Presiding Officer.

\*\*\* This should wherever possible be done on tracing paper which can be placed over the actual chart used.

### Report to the Court by Navigation Direction Officer

Questions	Answers
1	2

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 thereto?
4. Was the largest scale chart of the area 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 reliable fix and that of the occurrence accurately ascertained and correctly recorded therein?
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 gyro compass 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 gyro compass 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 chart/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 tidal 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 ?

(-----)

(Signature and rank of officer)

Date\_\_\_\_\_

(This report is to be read to the court by the Law Officer. 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).

**APPENDIX VIIA**

[See rule 95(2)]

*STATEMENT TO CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED*

Rank, Name & Number \_\_\_\_\_ of the Coast Guard Station\_\_\_\_\_

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

Within last 12 months	since joining service	
For(a) _____ times	_____ times	(a) Insert the
		Statement of
For _____ times	_____ times	offence and
		the relevant
For _____ times	_____ times	section of the
		Coast Guard
For _____ times	_____ times	Act,1978

Number of instances of gallantry or distinguished conduct.

Or

There are no entries in the service book of the accused

2. Irrespective of this trial the accused's general character\* is \_\_\_\_\_

\* The character assessment of the enrolled persons will be recorded in terms of rule 19 of the Coast Guard (Condition of Service) Rules, 1986.

3. The present age of the accused according to his (record of service/enrolment papers) is \_\_\_\_\_.

4. The date of his appointment/enrolment specified in his (record of service/enrolment papers) is \_\_\_\_\_ and his total service is \_\_\_\_\_

5. (In the case of an officer) The accused holds the substantive rank \_\_\_\_\_

of \_\_\_\_\_ since \_\_\_\_\_ and acting rank of \_\_\_\_\_ since \_\_\_\_\_.

6. The accused after joining Coast Guard has served continuously till present date -

In the rank of \_\_\_\_\_ for \_\_\_\_\_ years since \_\_\_\_\_

In the rank of \_\_\_\_\_ for \_\_\_\_\_ years since \_\_\_\_\_

In the rank of \_\_\_\_\_ for \_\_\_\_\_ years since \_\_\_\_\_

7. The accused is entitled to reckon \_\_\_\_\_ years service for the purpose of determining his pension or gratuity.

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

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

10. There are no previous convictions against the accused.

Or

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

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

The accused Rank \_\_\_\_\_ Name \_\_\_\_\_ No. \_\_\_\_\_ of the Coast Guard Ship/Establishment \_\_\_\_\_.

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

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



summarily

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

Station \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_20

Commanding Officer

**APPENDIX - VIII**

Warrants Under Sections 100 and 103 of the Coast Guard Act, 1978

**FORM 'A'**

Warrant of commitment for use when a prisoner is sentenced to imprisonment for life

(Section 100)

To

The Superintendent  
of the (a) \_\_\_\_\_ Prison

Whereas at a Coast Guard Court, held at \_\_\_\_\_ on the \_\_\_\_\_  
day of \_\_\_\_\_ 198, (No. \_\_\_\_\_ Rank \_\_\_\_\_ Name  
\_\_\_\_\_ Unit \_\_\_\_\_) was convicted of (the offence to be  
briefly stated here, as 'desertion on active duty', 'Correspondence with the enemy', or  
'as the case may be').

And whereas the said Coast Guard Court on the \_\_\_\_\_ day of  
\_\_\_\_\_ 198 \_\_, passed the following sentence upon the said (Name  
\_\_\_\_\_) that is to say \_\_\_\_\_

(Sentence to be entered in full but without signature)

And whereas the said sentence had been duly confirmed by (b) as required by law  
(c).

This is to require and authorise you to receive the said (Name \_\_\_\_\_)  
into your custody in the said prison as by law is required, together with this warrant, until  
he shall be delivered over by you with the said warrant to the proper authority and  
custody for the purpose of undergoing the aforesaid sentence of imprisonment. The  
aforesaid sentence has effected from the (d).

Given under my hand at \_\_\_\_\_ this the \_\_\_\_\_ day of \_\_\_\_ 198\_.

Signature (e)

(a) Enter name of civil prison.

(b) Name and description of confirming authority.

(c) Add if necessary "with a remission of \_\_\_\_\_"

(d) Enter date on which the original sentence was signed.

(e) Signature of Commanding Officer of the prisoner or other prescribed Officer.

**APPENDIX - VIII**

**FORM 'B'**

Warrant of commitment for use when a prisoner is sentenced to imprisonment which is to be undergone in a civil prison (Section 100).

To

The Superintendent  
of the (a) \_\_\_\_\_ Prison.

Whereas at a (b) \_\_\_\_\_ Coast Guard Court held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 198\_, (No. \_\_\_\_\_ Rank \_\_\_\_\_ Name \_\_\_\_\_ Unit \_\_\_\_\_) was duly convicted of (the offence to be briefly stated here, as "desertion", "theft", "receiving stolen goods", "fraud", "disobedience of lawful command" or as the case may be).

And whereas the said (b) \_\_\_\_\_ Coast Guard Court on the \_\_\_\_\_ day of \_\_\_\_\_ 198\_ , passed the following sentence upon the said (Name \_\_\_\_\_ ) that is to say (sentence to be entered in full, but without signature).

And whereas the said sentence \_\_\_\_\_ (c) has been confirmed by (d) as required by law (e) is by law valid without confirmation.

This is to require and authorise you to receive the said (Name \_\_\_\_\_ ) into your custody together with this warrant and there carry the aforesaid sentence of imprisonment into execution according to law. The sentence has effect from the (f) \_\_\_\_\_ .

Given under my hand at \_\_\_\_\_ this the \_\_\_\_\_ day of \_\_\_\_\_ 198\_.

Signature (f)

- a. Enter name of civil prison.
- b. Coast Guard Court or Summary trial.
- c. Strike out inapplicable words.
- d. Name and description of confirming authority.

- e. Add if necessary "with a remission of \_\_\_\_\_"
- f. Enter date on which the original sentence was signed.
- g. Signature of Commanding Officer of prisoner or other prescribed Officer.

**APPENDIX - VIII**

**FORM 'C'**

Warrant for use when a sentence of Imprisonment for life is reduced by superior authority to one of a shorter period (Section 103).

To

The Superintendent  
of the (a) \_\_\_\_\_ Prison

Whereas (No. \_\_\_\_\_ Rank \_\_\_\_\_ Name \_\_\_\_\_  
(late) of unit \_\_\_\_\_ is confined in the (a) \_\_\_\_\_ prison under a  
warrant issued by (b) in pursuance of a sentence of (c) \_\_\_\_\_ passed upon  
him by a (d) \_\_\_\_\_ Coast Guard Court held at \_\_\_\_\_ . And whereas  
(e) \_\_\_\_\_ has, in the exercise of the power conferred upon him by the Coast  
Guard Act, passed the following order regarding the aforesaid sentence; that is to say:  
(f) \_\_\_\_\_.

This is to require and authorise you to keep the said (Name \_\_\_\_\_ ) in  
your custody together with this warrant in the said prison as by law is required until he  
shall be delivered over by you with the said warrant to the proper authority and custody,  
for the purpose of his undergoing the punishment of Imprisonment for life under the said  
order. And this is further to require and authorise you to return to me the original warrant  
of commitment in lieu whereof this warrant is issued.

The period of such imprisonment will reckon from the (g).

Given under my hand at \_\_\_\_\_ this the \_\_\_\_\_ day of \_\_\_\_\_ 198\_\_\_\_.

Signature (h)

- a. Enter Name of civil prison.
- b. Enter name or designation of Officer who signed original warrant.
- c. Enter original sentence (if this was reduced by the confirming officer or other superior authority the sentence should be entered thus: -, "Life imprisonment reduced by confirming officer to 10 years".
- d. General
- e. Name and designation of authority varying the sentence.
- f. Order to be set out in full.

- g. Enter date on which original sentence was signed.
- h. Signature of prescribed officer.

**APPENDIX - VIII**

**FORM 'D'**

Warrant for use when prisoner is to be delivered into Coast Guard Custody.

To

The Superintendent  
of the (a) \_\_\_\_\_ Prison.

Whereas [No. \_\_\_\_\_ Rank \_\_\_\_\_ Name \_\_\_\_\_  
(late)] of the \_\_\_\_\_ Unit is confined in the (a) \_\_\_\_\_ prison under a  
warrant issued by (b) \_\_\_\_\_ in pursuance of sentence of (c)  
\_\_\_\_\_ passed upon him by a (d) \_\_\_\_\_ Coast Guard Court held at  
\_\_\_\_\_ on \_\_\_\_\_, and whereas (e) \_\_\_\_\_ has, in  
exercise of the powers conferred upon him by the Coast Guard Act passed the following  
order regarding the aforesaid sentence; that is to say (f) \_\_\_\_\_

This is to require and authorise you to deliver forthwith the said (Name  
\_\_\_\_\_) in your custody to the officer or subordinate officer bringing this  
warrant.

Given under my hand at \_\_\_\_\_ this the \_\_\_\_\_ day of \_\_\_\_\_ 198\_

Signature (g)

- a. Enter name of civil prison.
- b. Enter Name or designation of Officer who signed original warrant.
- c. Enter original sentence ( if this was reduced by the confirming officer or the other superior authority the sentence should be entered thus: "2 years rigorous imprisonment reduced by confirming officer to 1 year".
- d. Coast Guard Court or Summary.
- e. Name and designation of authority issuing the order.
- f. Order to be set out in full.
- g. Signature of prescribed officer.





**APPENDIX - VIII**

**FORM 'E'**

Warrant for execution of a sentence of death

To

The Superintendent of Jail \_\_\_\_\_

Whereas (Name of the prisoner) \_\_\_\_\_ (a) Ex-Rank \_\_\_\_\_ (a) Ex-Official No. (if any) \_\_\_\_\_ of Coast Guard Ship \_\_\_\_\_ was tried by the Coast Guard Court on \_\_\_\_\_ and sentenced to death and has been by warrant dated \_\_\_\_\_ committed to your custody;

And whereas the orders of the Central Government confirming the said sentence has been received which order is annexed hereto, this is to authorise 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 to 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 the \_\_\_\_\_ day of \_\_\_\_\_ 198\_.

Signature \_\_\_\_\_

Designation \_\_\_\_\_

- a. Delete as necessary.
- b. Time, date and place of execution.

