

Navy Act, 1957

Section 31 - Liability for Maintenance of Wife and Children

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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