

Navy Act, 1957

Chapter XIII - Procedure

Section 98 - Where courts-martial to be held

A court-martial may be held ashore or afloat.

Section 99 - Trial judge advocate

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

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

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

Section 100 - Courts-martial to be public

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

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

Section 101 - Commencement of proceedings

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

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

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

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

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

Section 102 - Objections to members

The following provisions shall apply to the disposal of objections raised by the prosecutor as well as the accused :--

- (a) any member may be objected to on a ground which affects his competency to act as an impartial Judge; and the trial judge advocate may reject summarily without reference to the members of the court any objection not made on such ground; '
- (b) objections to members shall be decided separately, those to the officer lowest in rank being taken first: provided that if the objection is to the President, such objection shall be decided first and all the other members whether objected to or not shall vote as to the disposal of the objection;
- (c) on an objection being allowed by one-half or more of the officers entitled to decide the objection, the member objected to shall at once retire and his place shall be filled up before an objection against another member is taken up;
- (d) should the president be objected to and the objection be allowed, the court shall adjourn until a new president has been appointed by the convening authority or by the officer empowered in this behalf by the convening authority; and
- (e) should a member be objected to on the ground of being summoned as a witness and should it be found that the objection has been made in good faith and that the officer is to give evidence as to facts and not merely as to character, the objection shall be allowed.

Section 103 - Further objections

- (1) The trial judge advocate shall then ask the accused whether he has any further objections to make respecting the constitution of the court; and should the accused raise any such objection, it shall then be decided by the court, which decision shall be final and the constitution of the court-martial shall not be afterwards impeached and it shall be deemed in all respects to have been duly constituted.
- (2) If the accused should have no further objection to make to the constitution of the court or if any objection is disallowed, the members and the trial judge advocate shall then make an oath or affirmation in the form set out in section 104.

Section 104 - Administering oath or affirmation

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

swear in the name of God

"I.....do _____

solemnly affirm

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

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

swear in the name of God

"I.....do

solemnly affirm

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

Section 105 - Arraignment

- (1) When the court is ready to commence the trial, the trial judge advocate shall read out the charges and shall ask the accused whether he pleads guilty or not guilty.
 - (2) If the accused pleads guilty, then, before such plea is recorded, the trial judge advocate shall ensure that the accused understands the charge to which he has pleaded guilty and the difference of procedure which will result from the plea of guilty.
 - (3) If it appears from the accused's replies or from the summary of evidence prepared in the prescribed manner that he should not plead guilty, the trial judge advocate may advise the accused to withdraw his plea.
 - (4) If the court accepts the plea of guilty, it shall be recorded as the finding of the court and the court shall proceed to take steps to pass sentence unless there are other charges to be tried in which event the sentence shall be deferred until after the findings on such charges are given.
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Section 106 - Opening of prosecution case

- (1) If the accused pleads not guilty or refuses to, or does not, plead or if he claims to be tried or if in the circumstances mentioned in sub-section (3) of section 105 withdraws the plea of guilty or if the court does not accept the plea of guilty, the court shall proceed to try the accused.
 - (2) The prosecutor shall open his case by reading the circumstantial letter prepared in accordance with the regulations made under this Act, reading from this Act or the Indian Penal Code or other law the description of the offence charged and stating shortly by what evidence he expects to prove the guilt of the accused.
 - (3) The prosecutor shall then examine his witnesses.
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Section 107 - Calling of prosecution witness not in the original list

No witness whose name was not included in the original list of witnesses supplied to the trial judge advocate and the accused in accordance with regulations made under this Act shall be called by the prosecutor unless the trial judge advocate has given notice to the accused of the prosecutor's intention to call such witness and has supplied the accused with a summary of the evidence of such witness.

Section 108 - Swearing of interpreter and shorthand-writer

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

swear in the name of God

"I.....do

solemnly affirm

that I will to the best of my ability truly interpret and translate as I will be required to do touching the matter before this court-martial."

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

swear in the name of God

"I.....do

solemnly affirm

that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as I will be required, and when required, will deliver to the court a true transcript of the same."

Section 109 - Objection to interpreter or shorthand-writer

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

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

Section 110 - Swearing of witnesses

(1) No witness shall be examined until he has been duly sworn or affirmed in the following manner:

swear in the name of God

"I.....do

solemnly affirm

that the evidence which I shall give before this court shall be the truth, the whole truth and nothing but the truth."

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

Section 111 - Plea of no case and defence of accused

(1) When the examination of the witnesses for the prosecution is concluded, the accused shall be called on for his defence.

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

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

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

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

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

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

(8) If the, accused or any one of the several accused applies to give evidence and there are no other witnesses in the case for the defence, other than witnesses as to character, then the evidence of such

accused shall be recorded and if the accused so desires the witnesses as to character shall be examined and the prosecutor shall then sum up his case and the accused may reply.

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

Section 112 - Adjournment to view

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

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

Section 113 - Summing up by the trial judge advocate

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

Section 114 - Duties of the trial judge advocate

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

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

Section 115 - Duties of the court

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

Section 116 - Retirement to consider finding

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

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

Section 117 - Announcement of the finding

(1) When the court has considered the finding, the court shall be re-assembled and the president shall inform the trial judge advocate in open court what is the finding of the court as ascertained in

accordance with section 124.

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

Section 118 - Drawing up of the finding

(1) The trial judge advocate shall then draw up the finding as announced by the court.

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

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

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

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

Section 119 - Evidence of character and previous convictions

(1) If the accused is found guilty on any or all of the charges, the court before awarding punishment may call evidence as to the previous character and qualifications of the accused and in addition to any oral evidence of general character that may be adduced, shall take into consideration the following documents which shall be read by the trial judge advocate in open court:--

(a) for any officer--

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

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

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

(b) for a seaman--

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

(ii) his certificate of service; and

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

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

Section 120 - Consideration of the sentence

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

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

Section 121 - Announcement of the sentence

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

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

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

Section 122 - Adjournment

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

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

Provided that not less than four members are present; and

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

Section 123 - Provisions relating to dissolution of court-martial

(1) A court-martial assembled under this Act shall be dissolved

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

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

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

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

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

Section 124 - Ascertaining the opinion of the court

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

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

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

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

Section 125 - Finding that the offence was committed with intent involving less degree of punishment

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

Section 126 - Alternative findings

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

Section 127 - Finding lesser offence proved on charge of greater offence

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

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

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

Section 128 - Transmission of proceedings to the Judge Advocate-General of the Navy

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

Section 129 - Right of accused to copy of proceedings and sentence

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

Section 130 to 137 - Rules as to evidence

Section 130 - Application of the Evidence Act

Subject to the provisions of this Act, the Indian Evidence Act, 1872, shall apply to all proceedings before a court-martial.

Section 131 - Accused competent witness for defence

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

Provided that--

- (a) he shall not be called as a witness except on his own request in writing or
- (b) his failure to give evidence shall not be made the subject of any comment by any of the parties or the court or give rise to any presumption against himself or any person charged together with him at the same trial.

Section 132 - Judicial notice

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

Section 133 - Presumption as to certain documents

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

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

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

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

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

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

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

- (a) any Chemical Examiner or Assistant Chemical Examiner to the Government;
- (b) the Chief Inspector of Explosives;
- (c) the Director of Finger Print Bureau;

(d)the Director of Haffkeine Institute, Bombay;

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

(f)the Serologist to the Government,

uponany matter or thing duly submitted to him for examination or analysis, may beused an evidence in any proceeding under this Act."

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

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

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

1.Substitutedvide Navy (Amdt) Act, 2005. Previous text was " Any documentpurporting to be a report under the hand of any chemical examiner or assistantchemical examiner to Government upon any matter or thing duly submitted to himfor examination or analysis may be used as evidence in any proceeding under thisAct".

Section 134 - Summoning of witnesses

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

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

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

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

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

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

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

Section 135 - Commissions for examination of witnesses

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

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

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

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

1. Substituted for the words "any district magistrate or a magistrate of the first class", by the Navy (Amdt.) Act, 1982 (48 of 1982), Section 7 (16-10-1982).

2. Substituted for certain words, by the Navy (Amdt.) Act, 1982 (48 of 1982), Section 7 (16-10-1982).

Section 136 - Examination of witnesses on commission

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

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

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

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

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

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

Section 137 - Power to summon and examine material witnesses

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

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

Section 138 to 142 - Compensation to aggrieved persons out of fine

Section 138 - Power of court to pay compensation out of fine

(1) Whenever a court-martial imposes a fine as a punishment, the court may when passing judgment order the whole or any part of the fine recovered to be applied,--

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

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

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

Section 139 - Summary punishment for contempt of court by person subject to naval law

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

Section 140 - Summary punishment for contempt of court by person not subject to naval law

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

Section 141 - Powers of court-martial when certain offences are committed by persons not subject to naval law

When any such offence as is described in section 165 of this Act, or section 193, section 194, section 195, section 196, section 199, section 200, section 228, section 463 or section 471 of the Indian Penal Code is committed by any person not subject to naval law in or in relation to a proceeding before a court-martial, such court-martial or the officer ordering the same if such court-martial is dissolved, may exercise the powers¹[under section 340 of the Code of Criminal Procedure, 1973], as if it or he were a criminal court within the meaning of that section.

1. Substituted for the words and figures "under section 476 of the Code of Criminal Procedure, 1898" by the Navy (Amdt.) Act, 1982 (48 of 1982), Section 8 (16-10-1982).

Section 142 - Powers of courts martial and disciplinary courts in relation to proceedings under this Act

Any trial by a court-martial or disciplinary court under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, and the court-martial or disciplinary court shall be deemed to be a court within the meaning of [1](#)[sections 345 and 346 of the Code of Criminal Procedure, 1973.]

1. Substituted for the words and figures "under sections 480 and 482 of the Code of Criminal Procedure Code, 1898" by the Navy (Amdt.) Act, 1982 (48 of 1982), Section 9 (16-10-1982).

Section 143 to 144 - Lunacy of accused

Section 143 - Accused found insane during trial

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

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

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

Section 144 - Lunacy of the accused at the time of offence

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

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

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

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

Section 145 to 146 - Disposal of property

Section 145 - Disposal of property pending trial

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

Section 146 - Disposal of property regarding which offence is committed

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

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

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

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

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