

Navy Act, 1957

Chapter XIX - Disposal of the Private Property of Persons Deceased, Missing, Etc

1[Disposal of property of deceased sailors

(1) On the death of a 1[sailor] while subject to naval law, the commanding officer of the ship to which the 1[sailor] belonged shall as soon as may be,-

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

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

(c) if he thinks fit, and subject to any regulations made in this behalf, collect all moneys left by the deceased in any banking company, including any post office savings banks, cooperative bank or society, or any other institution receiving deposits in money however named, and for that purpose may require the agent, manager or other proper authority of such banking company, society or other institution to pay the moneys to the commanding officer forthwith notwithstanding anything in the rules of the banking company, society or institution; and such agent, manager or other authority shall, notwithstanding anything contained in any other law, be bound to comply with the requisition.

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

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

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

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

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

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

1. Substituted for the word "seamen" by the Navy (Amdt.) Act, 1974 (53 of 1974), Section 2 (16-12-74).

Section 172 - Disposal of property of deceased officers

The provisions of section 171 shall also apply to the disposal of the property of an officer who dies while subject to naval law, but with the following modifications, namely :--

- (i) the functions of the commanding officer under section 171 shall be performed by a Committee of Adjustment constituted in this behalf in the prescribed manner; and
 - (ii) the surplus, if any, after the payment of debts and expenses specified in sub-section (3) of section 171 shall be paid to the person prescribed in this behalf.
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Section 173 - Decision of questions as to ship and service debts and other debts in ship or quarters

If in any case a doubt or difference arises as to what are the ship or service debts and the debts in ship or quarters of a deceased officer or 1[sailor] or as to the amount payable in respect thereof, the decision of the prescribed person shall be final and shall be binding on all persons for all purposes.

1. Substituted for the word "seamen" by the Navy (Amdt.) Act, 1974 (53 of 1974), Section 2 (16-12-74).

Section 174 - Nature of the powers of commanding officer or Committee of Adjustment

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

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

Section 175 - Powers of Central Government to hand over estate of deceased persons to the Administrator-General

(1) Notwithstanding anything contained in the Administrator-General's Act, 1913, an Administrator-General shall not interpose in any manner in relation to any property of a deceased which has been dealt with under section 171 or section 172 except in so far as he is expressly required or competent to do so by or under the provisions of this Act.

(2) The Central Government may, at any time and in such circumstances as it thinks fit, direct that the estate of a deceased 1[sailor] or officer shall be handed over by the commanding officer or the Committee of Adjustment, as the case may be, to the Administrator-General of a State for administration and thereupon such commanding officer or the Committee shall make over the estate to such Administrator-General.

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

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

(4) The Administrator-General shall pay the surplus, if any, remaining in his hands after discharging all debts and charges, to the heirs of the deceased and if no heir is traceable, shall make over the surplus to the person prescribed in this behalf.

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

1. Substituted for the word "seamen" by the Navy (Amdt.) Act, 1974 (53 of 1974), Section 2 (16-12-74).

Section 176 - Disposal of surplus by prescribed persons

On receipt of the surplus referred to in sub-section (7) of section 171 or clause (ii) of section 172 or sub-section (4) of section 175, the prescribed person shall,-

- (a) if he knows of a legal representative of the deceased, pay the surplus to that representative;
- (b) if the surplus does not exceed¹ the prescribed amount not exceeding rupees one lakh in value] if he thinks fit, pay or deliver to any person appearing to him to be entitled to receive the same, without requiring such person to produce any probate, letters of administration, succession certificate or other conclusive evidence of title;
- (c) if the prescribed person does not know of any such representative to whom the surplus could be paid under clause (a), or if the surplus has not been disposed of under clause (b), publish every year a notice in the prescribed form and manner for six consecutive years; and if no claim to the surplus is made by the legal representative of the deceased within six months even after the publication of the last of such notices, the prescribed person shall deposit the surplus together with any income or accumulation of income accrue therefrom, to the credit of the Central Government:

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

1. First Substituted for the words "five thousand rupees in value, the prescribed person may", by the Army, Air Force and Naval Law (Amendment) Act, 1970 (30 of 1970), Section 3 (13-8-1970). Again substituted by Navy (Amendment) Act, 2005 for ten thousand rupees in value

Section 177 - Disposal of effects not converted into money

Where any part of the estate of a deceased officer or¹[sailor] consists of effects, securities or other property not converted into money, the provisions of sub-section (7) of section 171 or clause (ii) of section 172 and section 176 with respect to the payment of the surplus shall, save as may be prescribed, extend to the delivery, transmission or transfer of such effects, securities or property, and the prescribed person shall have the same power of converting the same into money as a legal representative of the deceased.

1. Substituted for the word "seamen" by the Navy (Amdt.) Act, 1974 (53 of 1974), Section 2 (16-12-74).

Section 178 - Termination of liability of commanding officer, Committee, prescribed person and the Central Government

Any payment or application of money or delivery, sale or other disposition of any property made, or

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

Section 179 - Saving of rights of representative

Nothing in this Chapter shall affect the rights and duties of the representative of a deceased¹[sailor] or officer or any Administrator-General, in respect of the property of such deceased¹[sailor] or officer not collected by the commanding officer or the Committee, as the case may be, and not forming part of the surplus handed over to the prescribed person either under sub-section (7) of section 171 or clause (ii) of section 172.

1. Substituted for the word "seamen" by the Navy (Amdt.) Act, 1974 (53 of 1974), Section 2 (16-12-74).

Section 180 - Application of sections 171 to 179 to persons of unsound mind

The provisions of sections 171 to 179 shall, so far as they can be made applicable, also apply in the case of an officer or¹[sailor] subject to naval law who is ascertained in the prescribed manner to be of unsound mind notwithstanding anything contained in the Indian Lunacy Act, 1912, or who, while on active service, is officially reported missing, as if the said officer or¹[sailor] had died on the day on which his unsoundness of mind is so ascertained or, as the case may be, on the day on which he is officially reported missing :

Provided that in the case of an officer or¹[sailor] so reported missing, no action shall be taken to dispose of the property under sections 171, 172 and 175 until such time as a certificate under the regulations made under this Act is issued by or under the authority of the Chief of the Naval Staff or other prescribed person that he is confirmed or presumed to be dead.

1. Substituted for the word "seamen" by the Navy (Amdt.) Act, 1974 (53 of 1974), Section 2 (16-12-74).

Section 181 - Appointment of Standing Committee of Adjustment in certain cases

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

Section 182 - Exercise of powers by other persons

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

Section 183 - Forfeiture of effects for absence without leave

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