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Navy Act, 1957

Section 1 - SHORT TITLE AND COMMENCEMENT

NAVY ACT, 1957 NAVY ACT, 1957 62 of 1957 27th December, 1957 STATEMENT OF OBJECTS AND REASONS "The existing law relating to the Navy is contained in the Indian Navy (Discipline) Act, 1934. This Act was passed pursuant to section 66 of the Government of India Act, 1919, (later replaced bysection 105 of the Government of India Act, 1935), which empowered the then Indian Legislature to apply to the Naval Forces raised in India the provisions of the U.K. Naval Discipline Act. Accordingly the U.K. Naval Discipline Act, as modified and set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934. was made applicable to the Indian Naval Forces. When the constitutional changes took place, action was taken to adapt this Act and it now appears as a self-contained Act. 2. This Act dealt largely with disciplinary provisions. There were no statutory provisions concerning the various matters of administration, enrolment, grant of commissions etc. 3. It was long considered that this lacuna should be filled and when the constitutional changes took place it became evident that it would be necessary to have a consolidating statute on the subject. In the meantime, in 1950, the revised Army Act and Air Force Act were passed by Parliament. It was not possible at that time to draft a revised Navy Bill as the present Act was modelled mainly on the corresponding British Act. In U.K., a special committee had been appointed to examine the question of the revision of the British Naval Code. It was thought that it would be an advantage to await the report of that Committee. The present draft has been made taking into account the report of that Committee. 4. In drawing up the present Bill, the provisions of the Army and Air Force Acts have been borne in mind, but changes have had to be accepted on account of difference of conditions of service of the Navy and Naval traditions and usages. 5. The main object of the present Bill is to make the law self-sufficient by incorporating the necessary provisions of certain other related enactments and regulations and to adapt the existing provisions to suit the new constitutional set- up and present day requirements. 6. The main changes in the existing law are as follows :- (a) the maximum punishments have been modified to conform to the agreed decision concerning punishments in the three services: (b) provisions have been inserted concerning grant of commissions and enrolment in the service and for prescribing conditions of service; (c) provisions have been inserted pursuant to article 33 of the Constitution to restrict or abrogate the application of fundamental rights to the members of the Armed Forces in so far as this is necessary for the maintenance of discipline; (d) provisions have been inserted for deductions from pay of officers and ratings for absence without leave, damage to Government property, etc.; (e) the penal-sections have been rationalised and a few amendments made which have been necessitated by experience: (f) the jurisdiction to try civil offences has been modified to conform to that existing in the Army and Air Force; (g) the main points of procedure of Courts-martial have been incorporated in the Bill; (h) officers of the non-executive branches of the Navy who were formerly not eligible to sit at Courts-martial have been made eligible, it being provided however, that the majority of the officers will consist of officers of the executive branch; it has also been provided that in certain special cases only officers of the executive branch should sit; (i) provision has been made for issue of commissions to examine witnesses; (j) the Indian Evidence Act has been made applicable to the procedures of Courts-martial; (k) the judicial review of the Judge Advocate-General of the Navy has been placed on a statutory basis and his qualifications have been prescribed; (l) the existing naval Courts-martial procedure permitting the accused to give evidence on oath has been continued with a slight modification to conform to the provisions in the Criminal Procedure Code, as amended by the recent Criminal Procedure Code Amendment Act; (m) provision has been made for winding up of estates of deceased persons,- Gaz. of India, 31-5-1957, Pt. II, S. 2, Extra., p. 287. . Amendment Act 53 of 1974.- The Navy Act, 1957 (62 of l957) was brought into force from the 1st of January, 1958. In the light of the experience gained in the working of the Act during the last fifteen years, certain deficiencies and shortcomings come to light. Although the naval air arm has been a part of the Navy for quite sometime, the Act does not provide for any offences relating to flying or aircraft. Similarly, there is no provision in the Act for the reinstatement of persons belonging to the Indian Naval

Reserve Forces in their former employment on termination of actual service with the Navy, corresponding to that contained in the Indian Reserve Forces Act, 1884 or the Reserve and Auxiliary Air Force Act, 1952, and during the armed conflict in 1965 and 1971, the need for including a similar provision in the Act was acutely felt. Opportunity has, therefore, been taken to incorporate these provisions in the Act. 2, A new cadre of Master Chief Petty Officer was introduced in the Navy in December, 1968. This has necessitated an amendment to the definition of "petty officer" to bring Master Chief Petty Officer also within its purview. It is felt necessary to include certain new provisions which are existing in the Army and Air Force Acts and not provided for in the Navy Act such as the provision for dismissing an officer or sailor for misconduct which has led to his conviction on a criminal charge. 3. The Act prescribes the qualifications for appointment of the Judge Advocate-General and Deputy Judge Advocate- General in the Navy. To enable suitable and qualified service officers to be considered for these posts, a provision is being made to empower the Central Government to relax the qualification specified in exceptional circumstances. 4. The Bill mainly seeks to achieve the aforesaid objects.-Gaz. of Ind., 21 -11 -1973, Pt. II, S. 2, Ext., p.914. Amendment Act 48 of 1982.- The Navy Act, 1957 which was brought into force with effect from the 1st January, 1958 was last amended in 1974. In the light of the experience gained from the administration of the Act, it is proposed to make certain further amendments in that Act to-avoid scope for some difficulties which have been experienced and to remove certain deficiencies therein. 2. The more important amendments proposed to be made are as follows :- (1)A new cadre, namely, master chief petty officers, was introduced in the Navy in 1968. It has been noticed in some cases of offences by master chief petty officers that while the offences were not of a sufficiently serious nature to justify trial by Court-martial, the alternative method of dealing with such offences by awarding summary punishments was not adequate. It is, therefore, proposed to include in the category of summary punishments which may be awarded to these officers more serious punishments by way of forfeiture of seniority for a period of not more than twelve months and forfeiture of time for purposes of promotion for a period of not more than twelve months [vide clause 3(a), (b) and clause 4(b), (c)]. (2)Section 84 of the Army Act, 1950andsection 86 of the Air Force Act, 1950contain provision for summary trial of officers below the rank of Lt. Colonel and Squadron Leader respectively, whilstsection 94 of the Navy Act, 1957contains provision for summary trial of only subordinate officers with the expansion of the Navy, and keeping in view the institution of full-fledged commands and the upgradation of the officers holding command, it is felt that it is appropriate now to bring the provisions of the saidsection 94of the Navy Act into conformity with the corresponding provisions of the Army and Air Force Acts, S. 94 is acccordingly being amended to provide for summary trial of officers below the rank of commander [vide clause 5]. (3) Anewsection,184Ais proposed to be, inserted to enable the making of beneficial regulations with retrospective effect. This power is basically intended to be availed of for regularising benefits conferred by executive orders. The relevant provision is on the lines of similar provisions contained in other enactments, such as the All India Services Act, 1951 and is also in accordance with the recommendations of the Committees of Parliament on Subordinate Legislation [vide clause 11]. 3. The other changes proposed in the Bill are for substituting the references to the Code of Criminal Procedure, 1898 by references to the new Code of 1973 and for making certain other changes of a minor or consequential nature. 4. The Bill seeks to achieve the above objects- Gaz. of Ind., 16-3-1982, Pt. II, S.2, Ext., p. 194. An Act to consolidate and amend the law relating to the Government of the Indian Navy Be it enacted by Parliament in the Eighth Year of the Republic of India as follows :- 1) This Act may be called the Navy Act, 1957. (2) It shall come into force on such date" as the Central Government may, by notification in the Official Gazette, appoint.

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