

Navy Act, 1957

Section 97 - CONSTITUTION OF COURTS-MARTIAL

1) Courts-martial shall be constituted and convened subject to the provisions of the following sub-sections. (2) The President, the Chief of the Naval Staff, or any officer empowered in this behalf by commission from the Chief of the Naval Staff shall have the power to order courts-martial for the trial of offences under this Act. (3) Unless otherwise prescribed in respect of any specified port or station, an officer holding a commission from the Chief of the Naval Staff to order courts-martial shall not be empowered to do so if there is present at the place where such court-martial is to be held an officer superior in rank to himself and in command of one or more of the ships of the Indian Navy although such last mentioned officer may not hold a commission to order courts-martial and in such a case such last mentioned officer may order a court-martial although he does not hold a commission for the purpose. (4) If an officer holding a commission from the Chief of the Naval Staff to order courts-martial, having the command of a fleet or squadron and being outside Indian waters die, be recalled, leave his station or be removed from his command, the officer upon whom the command of the fleet or squadron devolves and so from time to time the officer who shall have the command of the fleet or squadron, shall without any commission from the Chief of the Naval Staff have the same power to order courts-martial as the first mentioned officer was invested with. (5) If an officer holding a commission from the Chief of the Naval Staff to order courts-martial and having the command of any fleet or squadron of the Indian Navy outside Indian waters shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron he may by commission under his hand empower in the first mentioned case, the commanding officer of the squadron or detachment ordered on such separate service and in the case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the second mentioned case, the senior officer of the ships of the Indian Navy on the division of the station from which he is absent, to order courts-martial during the time of such separate service or during his absence from that division of the station as the case may be, and every such authority shall continue in force until revoked or until the officer holding it returns to India or until he comes into the presence of a superior officer empowered to order courts-martial in the same squadron, detachment or division of station but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer and so from time to time as often as the case so requires. (6) A court-martial shall consist of not less than five nor more than nine officers. (7) No officer shall be qualified to sit as a member of a court-martial unless- (a) he is subject to naval law. (b) he is an officer of the Indian Navy of the rank of lieutenant or higher rank, and (c) he is of or over twenty-one years of age. (8) A prosecutor shall not be qualified to sit on the court-martial for the trial of the person he prosecutes. (9) The officer ordering the court-martial, 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 court-martial for the trial of such accused. (10) Subject to the provisions of sub-sections (7) to (9), officers of the Indian Navy shall be eligible to sit as members of a court-martial irrespective of the branch of the naval service to which they belong: Provided that- (a) the majority of the members of the court-martial, including the president, shall be officers of the executive branch of the naval service, and (b) at trials for offences against sections 34-,35-,55-52[55A, 55C] and 56, officers other than officers of the executive branch of the naval service shall not be eligible to sit. (11) A court-martial shall not be deemed to be duly constituted unless the members thereof are drawn from at least two ships not being tenders, and commanded by officers of the rank of lieutenant or higher rank. (12) The president of a court-martial shall be named by the authority ordering the same or by any officer empowered by such authority to name the president. (13) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer and the other officers composing the court are of the rank of captain or of higher rank. (14) No court-martial for the trial of a captain shall be duly constituted unless the president is a captain or of higher rank and the other officers composing the court are commanders

or officers of higher rank. (15) No court-martial for the trial of a commander shall be duly constituted unless the president is a commander or of higher rank and two other members are commanders or officers of higher rank. (16) No court-martial for the trial of a person below the rank of commander shall be duly constituted unless the president is a substantive or acting commander or of higher rank (17) No commander or lieutenant-commander or lieutenant shall be required to sit as a member of a court-martial when four officers of higher rank and junior to the president can be assembled at the place where the court-martial is to be held, but the regularity or validity of any court-martial or of the proceedings thereof shall not be affected by any commander, lieutenant-commander or lieutenant being required to sit or sitting thereon under any circumstances and when any commander, lieutenant-commander or lieutenant sits on any court-martial, the members of it shall not exceed five. (18) Members of the court-martial other than the president shall be appointed, subject to the provisions of the foregoing sub-sections, in the manner provided in sub-section (19). (19) Subject to the provisions of sub-section (11), the president shall summon all officers except such as are exempted under the provisions of sub-section (20), next in seniority to himself present at the place where the court-martial shall be held, to sit thereon until the number of nine or such other number not less than five as is attainable is complete. (20) The officer convening the court-martial or the senior naval officer present at the place where the court-martial is to be held, may exempt by writing under his hand conveyed to the president of the court-martial any officer from attending as member on ground of sickness or urgent public duty. (21) In this section references to specified ranks of officers shall, unless otherwise stated, be deemed to be references to substantive ranks and to include references to equivalent ranks in all branches of the naval service. (22) When the naval forces are on active service, officers of the Indian Navy Reserve Forces subject to naval law shall be eligible to sit as members of 'courts-martial on the same basis and under the same conditions as officers of the Indian Navy.

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