



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

NAVY (AMENDMENT)

ACT, No. 11 OF 1993

[Certified on 17th March 1993]

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L.D.—O. 53/89

AN ACT TO AMEND THE NAVY ACT

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Navy (Amendment) Act, No. 11 of 1993.

Short
title.

2. Section 4 of the Navy Act (hereinafter referred to as the "principal enactment") is hereby repealed and the following section substituted therefor:—

Amendment
of section
4 of
Chapter 358.

"Regular
Naval
Reserve.

4. The Regular Naval Reserve shall consist of officers who by Order of the President are transferred to such reserve from the Regular Naval Force or after service in the Regular Naval Force, and seamen who are transferred to such reserve from the Regular Naval Force in accordance with the terms of their enlistment or after service in the Regular Naval Force."

3. Section 11 of the principal enactment is hereby amended as follows:—

Amendment
of section
11 of the
principal
enactment.

(a) by the repeal of subsection (2) of that section and the substitution, therefor of the following subsection:—

"(2) A commissioned officer of the Regular Naval Force or Regular Naval Reserve who tenders his resignation of his commission to the President shall not be relieved of the duties of his appointment, until:—

(a) he has returned to the prescribed officer in good order (fair wear and tear only excepted) all such arms, clothing and appointments in his possession as are the property of the Navy; and

(b) the acceptance of his resignation is notified in the Gazette."

- (b) by the repeal of subsection (4) of that section and the substitution therefor of the following subsection :—

“ (4) Where a commissioned officer of the Volunteer Naval Force or Volunteer Naval Reserve has resignation of his commission he shall, upon his in accordance with subsection (3) gives notice of the returning to the prescribed officer in good order (fair wear and tear only excepted) all such arms, clothing and appointments in his possession as are the property of the Navy, be entitled to resign his commission—

(a) if he is not on active service, on the date of resignation specified in such notice, or

(b) if he is on active service, immediately after the termination of such service.”.

Amendment
of section 13
of the
principal
enactment.

4. Section 13 of the principal enactment is hereby amended as follows :—

- (a) by the addition at the end of subsection (2) of that section, of the following proviso :—

“ Provided however, that when a seaman has entered into a bond to serve the Navy or the Government of Sri Lanka for a specified period, he shall serve the Navy until the expiration of the specified period, notwithstanding the fact that such specified period extends beyond the period of original enlistment or period of re-engagement as the case may be.”; and

- (b) by the addition, at the end of that section, of the following subsection :—

“ (3) A seaman of the Regular Naval Force or Regular Naval Reserve shall not be relieved of his duties as seaman until he has returned to the prescribed officer in good order (fair wear and tear only excepted) all such arms, clothing and appointments in his possession as are the property of the Navy.”.

5. Section 14 of the principal enactment is hereby amended by the substitution, for the words, "reserve on such date.", of the words "reserve on such date, upon his returning to the prescribed officer in good order (fair wear and tear only excepted) all such arms, clothing and appointments in his possession as are the property of the Navy."

Amendment
of section 14
of the
principal
enactment.

6. Section 26 of the principal enactment is hereby amended by the substitution, for the words, "from the commission of the offence, or, where that person has been absent from Ceylon during such period, within one year after his return to Ceylon." of the words, "from the date of the discovery of the offence, or, where that person has been absent from Sri Lanka during such period, within one year after his return to Sri Lanka,".

Amendment
of section
26 of the
principal
enactment.

7. Section 27 of the principal enactment is hereby amended in the proviso to subsection (1) of that section by the substitution, for the words "after the lapse of six months from the date of the commission of such offence," of the words "after the expiration of two years from the date of discovery of such offence,".

Amendment
of section
27 of the
principal
enactment.

8. Section 28 of the principal enactment is hereby amended as follows:—

Amendment
of section
28 of the
principal
enactment.

(a) by the renumbering of that section as subsection (2) of that section;

(b) in the renumbered subsection (2), of that section by the substitution for the words, "non-capital naval offence," of the words "non-capital offence,"; and

(c) by the insertion immediately before the renumbered subsection (2) of that section, of the following new subsection:—

"(1) Where an officer of the rank of lieutenant or below is charged with a non capital offence other than an offence which is expressly required by this Act to be tried by court martial, the Commander of the Navy or an officer not below the rank of Captain as may thereto be authorised by the Commander of the Navy shall ask the accused whether he desires to be dealt with summarily or to be tried by a court martial and, if the accused elects to be tried by a court martial shall take

steps for his trial by court martial, if the accused elects to be dealt with summarily may proceed to deal with the accused summarily: Provided, however, the punishment such officer shall have power to impose, shall be forfeiture of seniority or any less severe punishment in the scale of punishments.”;

(d) by the repeal of the marginal note of that section and the substitution therefor, of the following marginal note:—

“Summary trial of offender by Commander or by commanding officers.”.

**Replacement
of section
29 of the
enactment.
principal**

9. Section 29 of the principal enactment is hereby repealed and the following section is substituted therefor:—

“Right of offender who is a petty officer or warrant officer to elect to be tried summarily or by court martial.

29. Where a warrant officer or petty officer is charged with a non-capital offence other than a disciplinary offence or an offence which is expressly required by this Act to be tried by a court martial his commanding officer shall ask him whether he desires to be dealt with summarily or to be tried by a court martial and if he elects to be tried by a court martial, shall take steps for his trial by a court martial.”.

**Amendment
of section
34 of the
principal
enactment.**

10. Section 34 of the principal enactment is hereby amended, in subsection (1) of that section, by the substitution, for the words, “rank not below that of Lieutenant Commander”, of the words “rank not below that of Captain”.

**Amendment
of section
35 of the
principal
enactment.**

11. Section 35 of the principal enactment is hereby amended as follows:—

(a) in subsection (8) of that section, by the substitution, for the words “to name the President.”, of the words “to name the President and the other members of the court martial may be named by the authority ordering the court martial”; and

(b) in subsection (12) of that section, by the substitution for the words “where the court martial is to be held”, of the words “where the court martial is to be held, unless the other members have been named by the authority ordering the court martial”.

12. Section 37 of the principal enactment is hereby amended as follows:—

Amendment
of section
37 of the
principal
enactment.

(a) by the substitution, for the words "exception of Sundays," of the words "exception of public holidays within the meaning of the Holidays Act, No. 29 of 1971,"; and

(b) by the addition at the end of that section of the following new proviso:—

"Provided, however, the validity of any proceeding of any court martial shall not be affected by reason only of it being held on a public holiday."

13. Section 52 of the principal enactment is hereby amended in subsection (1) thereof by the substitution for the words "not exceeding ten cents for every folio of seventy-two words as may be prescribed.", of the words "as may be prescribed."

Amendment
of section
52 of the
principal
enactment.

14. Section 60 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution, for the words "without leave without being guilty" of the words "without leave of improperly leaves his ship or place of duty without being guilty".

Amendment
of section
60 of the
principal
enactment.

15. Section 61 of the principal enactment is hereby amended by the substitution, for the words "without leave without being guilty", of the words "without leave or improperly leaves his ship or place of duty without being guilty".

Amendment
of section
61 of the
principal
enactment.

16. Section 68 of the principal enactment is hereby amended as follows:—

Amendment
of section
68 of the
principal
enactment.

(a) by the substitution, for the words "his superior officer whether or not such superior officer", of the words, "any other person subject to naval law whether or not such other person"; and

(b) in the marginal note to that section, by the substitution for the words "superior officer." of the words, "any person subject to naval law."

17. Section 69 of the principal enactment is hereby amended as follows:—

Amendment
of section
69 of the
principal
enactment.

(a) by the substitution, for the words "his superior officer, or uses threatening or insulting language or behaves with contempt to his superior officer,

shall be " of the words, "his superior officer or a junior officer in the performance of his duty under section 24, or uses threatening or insulting language or behaves with contempt to his superior officer or a junior officer in performing his duty words, "to superior officer or a junior officer."

(b) in the marginal note to that section, by the substitution, for the words "to superior officer", of the words, "to superior officer or a junior officer".

Amendment
of section
71 of the
principal
enactment.

18. Section 71 of the principal enactment is hereby amended, in paragraph (b) thereof by the substitution for the words "term not less than three years or", of the words, "to superior officer or a junior officer."

Amendment
of section
77 of the
principal
enactment.

19. Section 77 of the principal enactment is hereby amended, in paragraph (b) thereof, by the substitution than three years or any less severe punishment in the scale of punishments, and," of the word "term not less than three years, and,".

Amendment
of section
80 of the
principal
enactment.

20. Section 80 of the principal enactment is hereby amended by the substitutions for the words "for the use of the Navy shall", of the words "by the Navy shall".

Amendment
of section
82 of the
principal
enactment.

21. Section 82 of the principal enactment is hereby amended as follows:—

(a) by the repeal of paragraph (b) thereof, and the substitution of the following paragraph therefor:—

"(b) by neglect, loses, or causes the diminution of any such property, or";

(b) in paragraph (c) thereof, by the substitution, for the word "injures", of the words "injures or destroys".

Amendment
of section
102 of the
principal
enactment.

22. Section 102 of the principal enactment is hereby amended by the substitution, for the words "produced effects injurious to such forces, shall be", of the words "produced effects injurious to such forces or is likely to have produced effects injurious to such forces, shall be".

Amendment
of section
104 of the
principal
enactment.

23. Section 104 of the principal enactment is hereby amended as follows:—

(a) by the renumbering of that section as subsection (1) of that section :

- (b) by the addition at the end of that section of the following new proviso:—

“Provided, however, that if the act, conduct, disorder or neglect, which constitutes such offence is committed by such person at a guard of honour, parade, or ceremony, or other service function he shall be punished with rigorous imprisonment for a term not exceeding twenty years.”; and

- (c) by the addition, at the end of that section, of the following new subsection:—

“(2) Every person subject to Naval law who aids, abets, counsels or procures the commission by another person of an offence under this Act shall be guilty of an offence and shall be tried in the manner specified for the trial of the first-mentioned offence and shall be liable to the same punishment as is specified for the first-mentioned offence.”.

24. Section 105 of the principal enactment is hereby amended by the substitution, for the words “be punished with a fine not exceeding two hundred rupees.”, of the words “be punished with rigorous imprisonment, for a term not exceeding five years or with a fine not exceeding five thousand rupees or with both such fine and imprisonment.”.

Amendment
of section
105 of the
principal
enactment.

25. Section 106 of the principal enactment is hereby amended by the substitution for the words “for his enlistment as a seaman shall”, of the words “for his appointment as an officer or his enlistment as a seaman shall”.

Amendment
of section
106 of the
principal
enactment.

26. Section 107 of the principal enactment is hereby amended as follows:—

Amendment
of section
107 of the
principal
enactment.

- (a) in paragraph (a) of that section by the substitution for the words “absent himself without leave, or attempts to procure or persuade any officer or seaman to desert or absent himself without leave, or”, of the words “absent himself without leave or leave improperly, or attempts to procure or persuade any officer or seaman to desert or absent himself without leave or leave improperly, or”;

- (b) in paragraph (b) of that section by the substitution for the words “absent himself without leave, aids him in deserting or absenting himself without leave, or”, of the words “absent himself without

leave or leave improperly, aids him in deserting or absenting himself without leave or leaving improperly, or";

(c) in paragraph (c) of that section by the substitution for the words "or absentee without leave," of the words "or absentee without leave or has improperly left,"; and

(d) in the marginal note to that section by the substitution, for the words "without leave," of the words "without leave or leave improperly."

**Amendment
of section
110 of the
principal
enactment.**

27. Section 110 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

(a) in paragraph (b) thereof, by the substitution, for the words "pawn or give away, or", of the words "pawn or give away or destroy, or"; and

(b) in paragraph (c) thereof, by the substitution, for the words "pawning, or making away", of the words "pawning, destroying, or making away".

**Amendment
of section
114 of the
principal
enactment.**

28. Section 114 of the principal enactment is hereby amended by the substitution, for paragraphs (a), (b), (c), civil court," of the words "the High Court holden at the nearest zone,".

**Amendment
of section
120 of the
principal
enactment.**

29. Section 120 of the principal enactment is hereby amended by the substitution for paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m) of that section, of the following paragraphs:—

"(a) death;

(b) rigorous imprisonment;

(c) dismissal with disgrace from the Navy;

(d) simple imprisonment;

(e) dismissal without disgrace from the Navy;

(f) detention;

(g) forfeiture of seniority as an officer for a specified time or otherwise;

(h) disration of subordinate, warrant or petty officer;

(i) forfeiture of pay, allowance, and other emoluments due, and medals and decorations granted to the offender or of any one or more thereof, also,

in the case of desertion, of all clothes and effects left by the deserter on board the ship or at the place from which he has deserted;

- (j) severe reprimand;
- (k) reprimand;
- (l) such minor punishments as may be prescribed."

30. Section 144 of the principal enactment is hereby amended as follows:—

Amendment
of section
144 of the
principal
enactment.

- (a) in subsection (1) of that section by the substitution, for the words, "absentee without leave has", of the words "absentee without leave or having improperly left has";
- (b) in subsection (2) of that section by the substitution, for the words "absentee without leave has", of the words "absentee without leave or having improperly left has";
- (c) in the marginal note to that section by the substitution, for the words "absentee without leave.", of the words "absentee without leave or a person who has improperly left."

31. Section 151 of the principal enactment is hereby amended as follows:—

Amendment
of section
151 of the
principal
enactment.

- (a) by the substitution, for the words "absentees without leave:—", of the words "absentees without leave or have improperly left:—";
- (b) in paragraph (a) of that section by the substitution, for the words "an absentee without leave, it shall be", of the words "an absentee without leave or has improperly left, it shall be";
- (c) in paragraph (b) of that section by the substitution, for the words "an absentee without leave is", of the words "an absentee without leave or have improperly left, is";
- (d) in sub-paragraph (i) of paragraph (b) of that section, by the substitution, for the words "an absentee without leave, shall", of the words "an absentee without leave, or has. improperly lift, shall";

- (e) in sub-paragraph (ii) of paragraph (b) of that section by the substitution, for the words "an absentee without leave and", of the words "an absentee without leave or to have improperly left and";
- (f) in paragraph (d) of that section by the substitution, for the words "an absentee without leave, the", of the words "an absentee without leave or having improperly left, the";
- (g) in paragraph (e) of that section by the substitution for the words "an absentee without leave, the officer in charge of the police station to which he is brought shall forthwith inquire into the case, and, if it appears to him from the confession of such officer or seaman that such officer or seaman is a deserter or absentee without leave, may", of the words "an absentee without leave or having improperly left, the officer in charge of the police station to which he is brought shall forthwith inquire into the case, and, if it appears to him from the confession of such officer or seaman that such officer or seaman is a deserter or absentee without leave or has improperly left, may".

Amendment
of section
163 of the
principal
enactment.

32. Section 163 of the principal enactment is hereby amended as follows:—

- (a) by the substitution for the definitions respectively of "civil court", "Minister", "seaman", "superior officer" of the following new definitions:—

"civil court" means any court established under the Constitution or any other Act of Parliament;

"Minister" means the Minister in charge of the subject of Defence;

"seaman" means a member of the Navy not being an officer and includes a woman sailor; and

"superior officer" includes any officer, warrant officer and petty officer; and

(b) by the addition at the end of that section of the following new definition:—

“warrant officer” means a master chief petty officer or a fleet chief petty officer.”.

33. Wherever in any provision of the principal enactment, the words “Permanent Secretary” occurs, there shall be substituted the word “Secretary”.

General amendment of provisions of principal enactment.

34. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.