



# Naval Discipline Act 1860

## 1860 CHAPTER 123

### PART III

#### REGULATIONS AS TO PUNISHMENTS

#### **XLV Punishments.**

The following Punishments may be inflicted in Her Majesty's Navy:

- (1) Death:
- (2) Penal Servitude:
- (3) Dismissal with Disgrace from Her Majesty's Service:
- (4) Imprisonment or Corporal Punishment:
- (5) Dismissal from Her Majesty's Service:
- (6) Forfeiture of Seniority as an Officer for a specified Time, or otherwise:
- (7) Dismissal from the Ship to which the Offender belongs:
- (8) Severe Reprimand, or Reprimand:
- (9) Disrating a Subordinate or Petty Officer:
- (10) Forfeiture of Pay, Head Money, Bounty, Salvage, Prize Money, and Allowances earned by and of all Annuities, Pensions, Gratuities, Medals, and Decorations granted to the Offender, or of any One or more of the above Particulars ; also, in the Case of Desertion, of all Clothes and Effects left by the Deserter on board the Ship to which he belongs.
- (11) Such minor Punishments as are now inflicted according to the Custom of the Navy, or may from Time to Time be allowed by the Admiralty :  
and each of the above Punishments shall be deemed to be inferior in Degree to every Punishment preceding it in the above Scale.

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## **XLVI Regulations as to Punishments.**

The following Regulations are hereby made with respect to the Infliction of Punishments in Her Majesty's Navy:

- (1) The Admiralty may, except in case of Sentence of Death, which shall only be remitted by Her Majesty, suspend, annul, or modify any Sentence passed on any Person subject to this Act:
- (2) Judgment of Death shall not be passed on any Prisoner unless Tour at least of the Officers present at the Court-martial, where the Number does not exceed Five, and in other Cases a Majority of not less than Two Thirds of the Officers present, concur in the Sentence :
- (3) The Punishment of Death shall not be inflicted on any Prisoner until the Sentence has been confirmed by the Admiralty or by the Commander-in-Chief on a Foreign Station:
- (4) The Punishment of Penal Servitude may be inflicted for the Term of Life, or for any other Term of not less than Four Years :
- (5) The Punishment of Penal Servitude shall in all Cases involve Dismissal with Disgrace from Her Majesty's Service :
- (6) Dismissal with Disgrace shall involve in all Cases a Forfeiture of all Pay, Head Money, Bounty, Salvage, Prize Money, and Allowances that have been earned by, and of all Annuities, Pensions, Gratuities, Medals, and Decorations that may have been granted to the Offender, and an Incapacity to serve Her Majesty again in any Military, Naval, or Civil Service; and may also in all Cases be accompanied by a Sentence of Imprisonment, with or without Solitary Confinement not exceeding the Periods herein-after mentioned, and with or without Hard Labour for all or any Part of the Term of Imprisonment, and with or without Corporal Punishment:
- (7) The Punishment of Imprisonment may be inflicted for any Term not exceeding Two Years; it may be accompanied with a Direction that the Prisoner shall be kept in Solitary Confinement for any Period of such Term not exceeding Fourteen Days at any One Time, and not exceeding Eighty-four Days in any One Year, with Intervals between the Periods of Solitary Confinement of not less Duration than the Periods of Solitary Confinement, and when the Imprisonment awarded exceeds Eighty-four Days, the Solitary Confinement shall not exceed Seven Days in any Twenty-eight Days of the whole Imprisonment awarded, with Intervals between the Periods of Solitary Confinement of not less Duration than such Periods, or the Punishment of Imprisonment may be accompanied with a Direction that the Prisoner shall be kept to Hard Labour for all or any Part of the Term of Imprisonment; and Corporal Punishment may be awarded in addition to any Sentence of Imprisonment: In any Case of Corporal Punishment, not more than Forty-eight Lashes shall be inflicted:
- (8) No Officer shall be subject to Corporal Punishment: no Petty or Non-commissioned Officer shall be subject to Corporal Punishment, except in case of Mutiny:

All other Punishments authorized by this Act may be inflicted in the Manner heretofore in use in the Navy.

## **XLVII Limitation of Time as to Trials.**

No Person, unless he be an Offender who has avoided Apprehension or fled from Justice, shall be tried or punished in pursuance of this Act for any Offence committed

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by him unless such Trial shall take place within Three Years from the Commission of such Offence, or within One Year after the Return of such Offender to the United Kingdom, where he has been absent from the United Kingdom during such Period of Three Years.

#### **XLVIII Scale of Punishment.**

Subject to the foregoing Regulations, where any Punishment is specified by this Act as the Penalty for any Offence, and it is further declared that another Punishment may be awarded in respect of the same Offence, the Expression " other Punishment" shall be deemed to comprise every Punishment inferior in Degree to the specified Punishment, according to the Scale herein-before mentioned; but Corporal Punishment shall be deemed equal in Degree to Imprisonment, and may in all Cases, subject to the foregoing Regulations, be inflicted as a Substitute for or in addition to Imprisonment.

#### **XLIX Authorities having Power to try Offences.**

Any Offence triable under this Act may be tried and punished by Court-martial; and any Offence triable under this Act, not committed by an Officer, and not hereby made Capital, may, under such Regulations as the Admiralty may from Time to Time issue, be summarily tried and punished by the Officer in Command of the Ship to which such Offender belongs, subject to the following Restrictions ; (that is to say,)

- (1) The Commanding Officer shall not have Power to award the Punishment of Penal Servitude:
- (2) The Commanding Officer shall not have Power to sentence any Man, except a Deserter, or Man absent without Leave, to Imprisonment for a longer Period than Twenty-eight Days, nor to sentence a Deserter to Imprisonment for a longer Period than Three Calendar Months, nor a Man absent without Leave to Imprisonment for a longer Period than Six Weeks, nor to award Solitary Confinement for more than Seven Days at a Time with Intervals of not less than Seven Days between each Period of Solitary Confinement:
- (3) Except in case of open Mutiny, no Man shall be sentenced by the Commanding Officer to Corporal Punishment until his Offence has been inquired into by One or more Officers appointed by such Commanding Officer, and his or their Opinion as to the Guilt or Innocence of the Prisoner reported to such Commanding Officer, and the Commanding Officer shall thereupon act as according to his Judgment may seem right.