



# Naval Discipline Act 1860

## 1860 CHAPTER 123

### PART IV

#### COURTS-MARTIAL

##### *Constitution of Courts-martial*

#### **L Constitution of Courts-martial.**

The following Regulations are hereby made with respect to Courts-martial:

- (1) A Court-martial shall consist of not less than Five nor more than Nine Officers:
- (2) No Officer shall be qualified to sit as a Member of any Court-martial held in pursuance of this Act unless he be a Flag Officer, Captain, Commander, or Lieutenant of Her Majesty's Navy on Full Pay :
- (3) A Court-martial shall not be held unless at least Three of Her Majesty's Ships, not being Tenders, and not commanded by Officers under the Rank of Lieutenant, are together at the Time when such Court-martial is held:
- (4) No Officer shall sit on a Court-martial who is under Twenty-one Years of Age:
- (5) 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 :
- (6) No Court-martial for the Trial of a Captain in Her Majesty's Navy 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:
- (7) No Court-martial for the Trial of any Person below the Rank of Captain in Her Majesty's Navy shall be duly constituted, unless the President is a Captain or of higher Rank, nor unless in addition to the President there are Two other Members of the Court of the Rank of Commander or of higher Rank:

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- (8) The Prosecutor shall not sit on any Court-martial for the Trial of a Prisoner whom he prosecutes :
- (9) The Admiralty shall have Power to order Courts-martial to be held for the Trial of Offences under this Act, and to grant Commissions to any Officer of Her Majesty's Navy on Full Pay authorizing him to order Courts-martial to be held for the Trial of such Offences :
- (10) An Officer holding a Commission from the Admiralty 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 any Officer superior in Rank to himself, 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 any Commission for the Purpose:
- (11) If any Officer holding a Commission from the Admiralty to order Courts-martial, having the Command of a Fleet or Squadron, and being in Foreign Parts, 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 Admiralty, have the same Power to order Courts-martial as the first-mentioned Officer was invested with :
- (12) If any Officer holding a Commission from the Admiralty to order Courts-martial, and having the Command of any Fleet or Squadron of Her Majesty's Ships in Foreign Parts, shall detach any Part of such Fleet or Squadron, he may, by Commission under his Hand, empower the Commanding Officer of the Squadron or Detachment ordered on such separate Service, and in case of his Death or ceasing so to command the Officer to whom the Command of such separate Squadron or Detachment shall belong, to order Courts-martial during the Time of such separate Service, or until such Authority shall be revoked, or until the Officer commanding the Detachment shall come under the Command of another superior Officer, or shall return to the United Kingdom:
- (13) The Officer ordering a Court-martial shall not sit thereon:
- (14) The President of every Court-martial shall be named by the Authority ordering the same, or by any Officer empowered by such Authority to name the President:
- (15) No Commander or Lieutenant shall be required to sit as a Member of any Court-martial when Four Officers of a higher Rank and junior to the President can be assembled at the Place where the Court-martial is to be holden:
- (16) Subject to the foregoing Regulations, whenever a Court-martial shall be held the Officer appointed to preside thereat shall summon, according to Seniority, all the Officers present at the Place where the Court-martial shall be held to sit thereon, until the Number of Nine, or such Number, not less than Five, as is attainable, is complete; subject to this Proviso, that the Admirals and Captains, being Superintendents of Her Majesty's Dockyards, shall not be summoned to sit on Courts-martial unless specially directed to do so by Orders from the Admiralty.