

**RULES FOR THE GUIDANCE OF SPECIAL COURTS APPOINTED UNDER THE INDIAN MERCHANT
SHIPPING ACT, 1883.**

No. 50.

The 5th October 1885

The following rules, prescribing the procedure to be followed by Special Courts in cases arising under the Indian Merchant Shipping Act, 1883, are published for the guidance of Special Courts appointed under the Act:-

- I.- When a Special Courts, appointed by the local Government under section 7 of Act V of 1883, has assembled, the Magistrate, who shall be the President of the Courts, shall open the proceedings by reading the orders appointing the members of the Court, directing them to make the investigation, and fixing the place for making the same.
- II.- The President shall then hand to the representative of the local Government a copy of the report or statement of the case upon which the investigation has been directed by the local Government.
- III.- The representative of the local Government shall then call such persons to give evidence touching the subject-matter of the investigation as he may be advised.
Every witness so called shall be sworn or affirmed, and his evidence shall be taken down by the President in writing.
- IV.- Any person may, by permission of the Court, appear and shall thereupon become a party to the proceedings.
- V.- The witnesses shall be cross-examined by the parties in such order as the President may direct.
- VI.- The representative of the local Government may, when in his opinion the evidence adduced warrants such a course, ask the Court to frame a charge, or the Court of its own motion may, at any time, stop the proceedings and frame a charge, charging a master, mate, or engineer with incompetence, misconduct, or a wrongful act or default.
- VII. At the time of the framing of the charge the representative of the local Government shall state whether, in his opinion, any certificate should be dealt with.
- VIII.- When the charge has been framed, a copy thereof, together with a copy of the report or statement of the case upon which the investigation was directed, shall be furnished to the person charged, and if the

person charged, so desires it, an adjournment shall be granted for such a time as to the Court seems reasonable, to enable him to make a defence, either in person or otherwise. The report or judgment of the Court (as the case may be) should expressly state that copies of the said charge and the report or statement of the case were furnished to the person charged.

IX.- If the Court, either on its own motion, or at the instance of the representative of the local Government, considers it probable that any certificate should be dealt with, an adjournment shall be granted and the attendance of two persons having experience in the merchant service secured to act as assessors. In other investigations, which do not involve the cancelling or suspension of a certificate, the Court may appoint as assessor a person conversant with maritime affairs and willing to act, and may adjourn for that purpose.

X.- At the time fixed for the enquiry into the charge, the Special Court and the assessors having assembled, the representative of the local Government shall conduct the enquiry into the charge in as nearly as possible the same manner as if the charge were a charge being enquired into in a Criminal Courts.

XI.- At the time and place appointed for the investigation into the charge, the Court may proceed to hear and adjudicate upon the case, whether the person charged is present or not.

XII.- When the person charged has closed his case, and the representative of the local Government has replied, if he is entitled to a reply, the Court shall adjourn until such time as may be convenient in order to prepare a report and, if necessary, a judgment, and to enable the assessors, if any, to write and send in their opinions.

XIII.- Upon the conclusion of the investigation, the Court shall-

(1) in the case of a local certificate, deliver no judgment, but transmit to the local Government the evidence recorded in the case, together with its own finding and recommendations thereon, and the opinions of the assessors (if any were appointed). It may also recommend the grant of a new certificate under the provisions of section 24. It should be observed that clause I of this section provides only for the grant of a new certificate in place of one which has been cancelled, and not in cases of mere suspension;

(2) in the case of a Board of Trade certificate, or of a Colonial certificate granted by any of the Governments of the possessions noted in the margin under authority of the Order* in Council, dated the 29th June 1882, deliver a judgment either acquitting the holder thereof or cancelling the certificate, or suspending it for a specified time; and shall transmit to the local Government a full report of the

conclusions at which it has arrived together with the evidence. It may also submit a recommendation that the local Government should grant a certificate under the provisions of section 19.

Bengal.	New Zealand.
Bombay.	New South Wales.
Canada.	Queensland.
Malta.	South Australis.
Newfoundland.	Victoria.

Tasmania.

----- Footnote -----

(11) Rule XIII. (2) the Order = Re-published under Financial Department Notification No, 49, dated the 5th October 1885, at page 322, Part I, of British Burma Gazette dated the 10th October 1885.