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**STANDING COMMITTEE ON  
DEFENCE  
(1996-97)**

**ELEVENTH LOK SABHA**

**MINISTRY OF DEFENCE**

**THE COAST GUARD (AMENDMENT) BILL, 1996**

**THIRD REPORT**

**AUTHENTICATED**



*[Handwritten signature]*

**Chairman  
Standing Committee  
on Defence**

**LOK SABHA SECRETARIAT  
NEW DELHI**

*April, 1997/Vaisakha, 1919 (Saka)*

APR 19 1997  
OFFICE

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**THIRD REPORT**  
**STANDING COMMITTEE ON**  
**DEFENCE**  
**(1996-97)**

**(ELEVENTH LOK SABHA)**

**MINISTRY OF DEFENCE**  
**THE COAST GUARD (AMENDMENT) BILL, 1996**



*Presented to Lok Sabha on.....*

*Laid in Rajya Sabha on.....*

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

*April, 1997 / Vaisakha, 1919 (Saka)*

**C.O.D. No. 03**

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COMPOSITION OF THE STANDING COMMITTEE ON DEFENCE  
(1996-97)

CHAIRMAN

Shri B. K. Gadhvi

MEMBERS-

*Lok Sabha*

2. Shri Jaswant Singh
3. Smt. Sushma Swaraj
4. Shri Banwari Lal Purohit
5. Shri Baburao Paranjpe
6. Lt. Gen. Shri Prakash Mani Tripathi
7. Shri Rajendra Agnihotri
8. Dr. Chhatrapal Singh
9. Dr. Vallabhbhai Kathiria
10. Shri Ram Chandra Benda
11. Shri Nihal Chand
12. Col. Sona Ram Choudhury
13. Dr. Mallikarjun
14. Shri Shivraj V. Patil
- \*15. Shri Rajesh Pilot
16. Shri P. Upendra
17. Shri P. Namgyal
18. Maj. Gen. Bikram Singh
19. Smt. Nisha Amarsinh Chaudhary
20. Shri H.D. Kumaraswamy
21. Shri Hannan Mollah
22. Shri A. Sampath
23. Shri C. Narasimhan
24. Shri Pratap Singh
25. Shri T. Nagaratnam
26. Shri Raja Ram Parasram Godse
27. Shri Nitish Kumar

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\*Ceased to be a Member w.e.f. 8.10.96.

28. Shri Major Singh Uboke  
 29. Shri Madhavrao Scindia  
 \* 30. Shri Suresh Kalmadi  
 \*\*\* 31. Shri Bhanu Prakash Mirdha

*Rajya Sabha*

32. Shri Sushil Kumar Sambhajirao Shinde  
 33. Shri Peter. S. Alphonse  
 34. Shri Lachman Singh  
 35. Shri Satchidananda  
 36. Shri Surendra Kumar Singh  
 37. Shri K.R. Malkani  
 38. Shri Satish Agarwal  
 39. Shri N. Thangaraj Pandian  
 40. Shri Adhik Shirodkar  
 41. Shri Suresh A. Keswani  
 \*\* 42. Prof. Ram Kapse

SECRETARIAT

- |                     |   |                             |
|---------------------|---|-----------------------------|
| 1. Dr. A.K. Pandey  | — | <i>Additional Secretary</i> |
| 2. Shri V.N. Gaur   | — | <i>Director</i>             |
| 3. Shri K.D. Muley  | — | <i>Assistant Director</i>   |
| 4. Shri Pawan Kumar | — | <i>Committee Officer</i>    |

\* Nominated w.e.f. 8.10.96

\*\* Nominated w.e.f. 5.11.96

\*\*\* Nominated w.e.f. 26.2.97

## INTRODUCTION

1. The Chairman, Standing Committee on Defence (1996-97) having been authorised by the Committee to submit the Report on their behalf, present this Third Report on the Coast Guard (Amendment) Bill, 1996.

2. The Coast Guard (Amendment) Bill, 1996 was introduced in Rajya Sabha on 26th November, 1996 and was referred to the Committee by the Hon'ble Speaker, in consultation with the Hon'ble Chairman, Rajya Sabha on 29th November, 1996 under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

3. The Committee held general discussion and also had briefing/presentation by the representatives of Ministry of Defence on the Bill on 12th December, 1996. At the sitting the Members raised some queries. The Ministry of Defence furnished the replies to those queries on 24th January, 1997. The Committee undertook clause-by-clause consideration of the Bill on 11th March, 1997 and adopted the same.

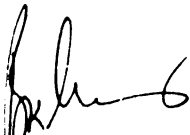
4. The Committee wish to express their thanks to the representatives of the Ministry of Defence for appearing before the Committee and for furnishing the material and information which the Committee desired in connection with the examination of the Bill. The Committee also wish to express their thanks to the representatives of the Ministry of Law and Justice for giving valuable assistance to the Committee in examination of the Bill.

5. The Report was considered and adopted by the Committee at their sitting held on 8th April, 1997.

NEW DELHI;  
*April 11, 1997*  

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*Chaitra 21, 1919 (Saka)*

  
B.K. GADHVI,  
*Chairman,*  
*Standing Committee on Defence.*

## REPORT

The Coast Guard has been raised as an Armed Force of the Union for ensuring the security of the maritime zones of the country. The Service keeps the nation's vast Exclusive Economic Zone of 2.2 million sq. kms. and the coastline of 7600 kms. under regular surveillance against activities inimical and adverse to national interest. The constitution and regulation of the Service and its personnel is governed by the Coast Guard Act, 1978 (30 of 1978), which came into force on 19th August, 1978.

2. The Service is conceptually based on the lines of the Border Security Force but patterned on the Navy and is structured for a quick and smooth switch over from the peace time role to war time responsibilities in support of the Indian Navy for specific tasks.

3. The Coast Guard Act is an amalgam of the provisions of the Border Security Force Act, 1968 (which in turn is based on the Army Act, 1950) and the Navy Act, 1957. The Committee have been informed that the Coast Guard Act has been found generally satisfactory for the purpose of achieving the objectives for which it was enacted. However, based on certain deficiencies and anomalies noticed during the last 18 years of existence of this Act and also to bring some of its provisions in conformity with the amended existing provisions of the Acts governing analogous Services, the Government propose to make certain changes therein through the Coast Guard (Amendment) Bill, 1996.

4. The Committee have considered the Background Note and written clarifications furnished by the Ministry of Defence and also the clarifications given by the representatives of Ministry of Defence during briefing/presentation and clause-by-clause consideration of the Coast Guard (Amendment) Bill, 1996.

### Amendment of Section 2 (w)

5. It is proposed to include the Pradhan Yantrik in the category of subordinate officers.

6. The Coast Guard personnel are categorised as officers, subordinate officers, sailors and other enrolled persons. Section 2 (t) and section 2 (w) of the Coast Guard Act, 1978 define the terms "sailor" and "subordinate officer", respectively. Though it is not mentioned in the definition, the ranks assigned to sailors are Navik, Uttam Navik and Pradhan Navik for the General Duty Branch



and Yantrik, Uttam Yantrik and Pradhan Yantrik for the Technical Branch. The rank structure of subordinate officers is Adhikari, Uttam Adhikari and Pradhan Adhikari for the General Duty Branch and Sahayak Engineer, Uttam Sahayak Engineer and Pradhan Sahayak Engineer for the Technical Branch. The pay scale of the Rank Pradhan Yantrik is same as that of an Adhikari (a subordinate officer) in the Coast Guard. Hence, it is an omission that the rank of Pradhan Yantrik was initially not added in the definition of the expression "subordinate officer" as defined by section 2 (w) of the Coast Guard Act. This has created status problems for technical personnel of Coast Guard at the level of Pradhan Yantrik. It is therefore, proposed to rectify this anomaly by including the rank of Pradhan Yantrik in the definition of subordinate officer by amending section 2 (w) of the Act

#### Amendment of Section 25 (2)

7. This relates to the offence of desertion. Desertion means absence from place of duty with the intention of not returning back for duty. Under military law this is a very serious offence.

8 As it stands, the offence of desertion in the Coast Guard attracts the punishment of imprisonment for a term which may extend to seven years or such less punishment as mentioned in the Coast Guard Act, 1978. The person who deserts, does not forfeit his pay, allowances, pension etc., by way of consequential penalties under the Act. In order to make the punishment for the offence of desertion more deterrent and to be in tune with section 49 of the Navy Act, 1957, it is proposed to amend section 25 (2) of the Act providing for forfeiture of all pay which may be due but not paid to him, salvage, prize money and allowances that have been earned by him and pensions, gratuities, medals and decorations that may have been granted to him and also all clothes and effects which he may have left on board the ship or place from which he deserted. However, he is not required to refund the earlier pay and allowances paid to him.

#### Amendment of Section 51 (1)

9 It is proposed to make a provision that the period of limitation (which is three years) for initiating proceedings for offences committed under the Coast Guard Act, 1978, which come to light later, should be counted from the time when the offence comes to notice or the offender is identified rather than from time when the offence was initially committed.

10. Presently, as per section 51 (1) of the Coast Guard Act, 1978, no person unless he is an offender who has avoided apprehension or escaped arrest or committed the offence of desertion or of giving false entry on enrolment or the

offence of mutiny, can be tried after a period of 3 years from the date of commission of offence. There are certain offences such as criminal breach of trust, misappropriation of property, etc. which come to light after long periods due to more time taken in the audit, verification of accounts, documents, etc. In order to ensure that such offences do not go unpunished, it is proposed to amend section 51(1) of the Act to provide that the period of 3 years for commencing trial should be computed from the date on which the offence is reported or the identity of the offender is first known. A similar amendment was also incorporated in 1992 in section 122 (1) of the Army Act, 1950.

Section 470 of the Code of Criminal Procedure, 1973 deals with exclusion of time in certain cases for computing the period of limitation. A similar provision exists in section 122 (3) of the Army Act, 1950 also. It is proposed to incorporate a provision on the lines of section 470 of the Code of Criminal Procedure, 1973 and section 122 (3) of the Army Act, 1950 by inserting a provision to section 51 (1) of the Coast Guard Act, 1978 stating that time spent by offender as prisoner of war, evading arrest or while a court injunction is in existence, will be excluded.

#### **Amendment of Section 52 (2)**

11. It is proposed to make provision for trial of persons, who cease to be subject to the Coast Guard Act, 1978, within a period of three years instead of the present provision of six months, for offences committed under this Act while they were subject to this Act.

12. Presently, a person who ceases to be subject to the Coast Guard Act, 1978 can be tried under the Act within six months after he so ceases to be governed by the Act. At times when the accounts and other documents are audited by the audit department, cases of misappropriation, falsification of documents, etc., come to light long after the offender ceases to be subject to the Act. In such cases, it has been found that though there is overwhelming evidence to charge the person for committing certain offences, but due to the short period of limitation mentioned in section 52 (2) of the Coast Guard Act, 1978, such a person cannot be tried under the Act. In order to overcome this problem, it is proposed to extend the said period of limitation from 6 months to 3 years. A similar amendment has already been made in 1992 in section 123 (2) of the Army Act, 1950.

#### **Insertion of New Section 57 A**

13. The Coast Guard personnel other than officers can be summarily tried by the Commanding Officer and such other officers with the consent of Central Government specified by the Director General, under section 57 of the Coast Guard Act, 1978. Since similar provision is not existing in the Act for summary

trial of officers, it is proposed to make a provision for summary trial of officers of certain ranks.

14. Under the existing provisions of the Coast Guard Act, 1978, there exists no specific power for taking disciplinary action against an officer except by convening a Coast Guard Court under Section 64 of the Act. Therefore, a Coast Guard Court has to be convened for taking disciplinary action for offences which are not of a serious nature. Section 94 of the Navy Act, 1957 has been amended in 1982 to provide for summary trial of officers below the rank of Commander by certain authorities. Similar provisions also exist under sections 83 and 84 of the Army Act, 1950 for personnel of equivalent ranks in the Army. To ensure expeditious disposal of cases relating to officers below the rank of Commandant for less serious offences, it is proposed to introduce a new section 57A in the Coast Guard Act for the said purpose.

#### **Insertion of New Section 58 (8)**

15. 'Mulcts' is a peculiar punishment in the Navy and the Coast Guard. It means a deduction or a financial penalty by recovery of pay and allowances. It is proposed to avoid imposing double penalties on Coast Guard personnel for overstayal of leave and unauthorised absence.

16. The concept of mulcts of pay and allowances in the Coast Guard Act, 1978 is similar to the existing provisions in the Navy Act, 1957. In the Navy Act, when mulcts of pay and allowances are awarded for absence without leave, the absence from duty is regularised, under regulation 180 of the Navy (Pay and Allowances) Regulations, 1966. In the Coast Guard, an anomaly has arisen due to the application of the CCS (Leave) Rules, which visualise regularisation of absence only by grant of covering leave, failing which the period of absence is required to be treated as 'dies non'. It is unfair to award both mulcts of pay and allowances and to attract the penalty of 'dies non' under the CCS (Leave) Rules. Therefore, it is necessary to modify the present provision by adding sub-section (8) to section 58 of the Coast Guard Act, providing that when mulcts are awarded for improper absence under the Act, the period of absence shall be deemed to be regularised in all such cases, to avoid double penal effect.

#### **Amendment of Section 86 (7)**

17. It is proposed to enlarge the scope of this Sub-section for covering the reports of some more scientific experts to be used as evidence in any proceeding under the Coast Guard Act, 1978.

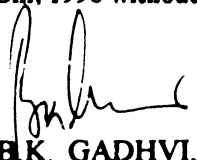
18. As per existing Sub-section (7) of section 86 of the Coast Guard Act, 1978, any document purporting to be a report under the hand of a Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis, can be used as evidence in any proceeding under the Act. The scope of this Sub-section is thus limited and the reports of other scientific experts, although relevant, cannot be used as evidence. To enlarge the scope of sub-section (7) for covering the reports of other scientific experts like Chief Inspector of Explosives, Directors of Finger Print Bureau, Haffkeine Institute, Central and State Forensic Science Laboratories and Serologist, which are admissible in evidence under Section 293 (4) of the Code of Criminal Procedure, 1973 and also under section 142 (7) of the Army Act, 1950, it is proposed to amend sub-section (7) of section 86 of the Act and include reports of these experts.

19. The amendments proposed to be made in Sections 56, 87 and 123 of the Coast Guard Act, 1978 are only consequential amendments.

20. The Committee note that the Coast Guard (Amendment) Bill, 1996 seeks to amend certain provisions of the Coast Guard Act, 1978 (30 of 1978). Some of the proposed amendments are with a view to remove anomalies and the others are to bring the provisions of the Coast Guard Act more in tune with the existing provisions of the Navy act, 1957 and the Army Act, 1950.

The Committee adopt the Coast Guard (Amendment) Bill, 1996 without any recommendation for amendment.

NEW DELHI,  
April 11, 1997  
 Chaitra 21, 1919 (Saka)

  
 B.K. GADHVI,  
 Chairman,

*Standing Committee on Defence.*

MINUTES OF THE SEVENTH SITTING OF THE STANDING  
COMMITTEE ON DEFENCE

(1996-97)

The Committee sat on Thursday, the 12th December, 1996 from 1500 hours to 1600 hours.

PRESENT

Shri B. K. Gadhvi — *Chairman*

MEMBERS

*Lok Sabha*

2. Smt. Sushma Swaraj
3. Shri Banwari Lal Purohit
4. Lt. Gen. Shri Prakash Mani Tripathi
5. Col. Sona Ram Choudhury
6. Shri Shivraj V. Patil
7. Shri P. Upendra
8. Shri P. Namgyal
9. Shri Hannan Mollah
10. Shri A. Sampath
11. Shri C. Narasimhan
12. Shri Raja Ram Parasram Godse
13. Shri Major Singh Uboke

*Rajya Sabha*

14. Shri Peter. S. Alphonse
15. Shri Satchidananda
16. Shri K.R. Malkani
17. Shri Suresh A. Keswani
18. Prof. Ram Kapse

SECRETARIAT

Shri V.N. Gaur

—

*Director*

REPRESENTATIVES OF THE MINISTRY OF DEFENCE

1. Shri T.K. Banerji — Defence Secretary
2. Shri K. Srinivasan — Additional Secretary
3. Shri H.S. Puri — Joint Secretary (P&C) & (Navy)
4. Inspector General N.S. Achreja — DDG, Coast Guard
5. DIG K.K.R. Nair — CLO (CGHQ)

REPRESENTATIVE OF THE MINISTRY OF LAW AND JUSTICE

Shri V.K. Bhasin — *Dy. Legislative Counsel*

2. At the outset, the Chairman welcomed the Defence Secretary and his colleagues to the sitting of the Committee and invited their attention to the Directions 55 & 58 of the Directions by the Speaker, Lok Sabha.

3. The representatives of the Ministry of Defence then made presentation on the Coast Guard (Amendment) Bill, 1996. After presentation, the Committee sought certain clarifications.

4. The representatives of the Ministry promised to furnish a comprehensive note covering all clarifications sought by the Committee. The Committee decided to take further evidence of the representatives of the Ministry of Defence on the Coast Guard (Amendment) Bill, 1996 on a future date.

5. A verbatim record of the proceedings was kept.

*(The witnesses then withdrew)*

*The Committee then adjourned.*

MINUTES OF THE EIGHTH SITTING OF THE STANDING  
COMMITTEE ON DEFENCE (1996-97)

The Committee sat on Tuesday, the 11th March, 1997 from 1500 hours to 1630 hours.

PRESENT

Shri B. K. Gadliwi — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Baburao Paranjpe
3. Lt. Gen. Shri Prakash Mani Tripathi
4. Shri Rajendra Agnihotri
5. Shri Ram Chandra Benda
6. Col. Sona Ram Choudhury
7. Shri Shivraj V. Patil
8. Shri P. Upendra
9. Shri P. Namgyal
10. Maj. Gen. Bikram Singh
11. Shri A. Sampath
12. Shri C. Narasimhan
13. Shri Raja Ram Parasram Godse
14. Shri Major Singh Uboke

*Rajya Sabha*

15. Prof. Ram Kapse

SECRETARIAT

1. Shri V.N. Gaur — *Director*
2. Shri K.D. Muley — *Assistant Director*

REPRESENTATIVES OF THE MINISTRY OF DEFENCE

1. Shri T.K. Banerji — *Defence Secretary*
2. Shri Ashok Kumar — *Addl. Secretary*
3. Vice Admiral R.N. Ganesh — *DG, Coast Guard*
4. Shri K.G. Goel — *Joint Secretary (Navy)*

- |    |                  |   |            |
|----|------------------|---|------------|
| 5. | DIG K.K.R. Nair  | — | CLO (CGHQ) |
| 6. | Shri S.L. Bunker | — | Dir (CG)   |

**REPRESENTATIVES OF THE MINISTRY OF LAW AND JUSTICE**

- |    |                     |   |               |
|----|---------------------|---|---------------|
| 1. | Dr. V.K. Agarwal    | — | Law Secretary |
| 2. | Dr. K.N. Chaturvedi | — | JS (LC)       |

2. At the outset, the Chairman welcomed the Hon'ble Members, the Defence Secretary and the Law Secretary and their colleagues to the sitting of the Committee and invited the attention of the representatives of the Ministry of Defence to the provisions contained in Directions 55 and 58 of the Directions by the Speaker, Lok Sabha. The Chairman informed the Members that representatives of the Ministry of Law and Justice had been invited to the sitting to assist the Committee in examination of the Bill.

3. The Defence Secretary briefly explained the salient points contained in the written information furnished by the Ministry of Defence in regard to the clarifications sought by the Members of the Standing Committee on Defence at the sitting of the Committee held on 12th December, 1996.

4. The Committee then undertook clause-by-clause consideration of the Coast Guard (Amendment) Bill, 1996. The Committee adopted the Bill without any recommendation for amendment.

5. The Chairman thanked the representatives of the Ministry of Defence for appearing before the Committee and frankly and freely sharing their views on matters concerning the Bill which came up for discussion/consideration. The Chairman also thanked the representatives of the Ministry of Law and Justice for giving valuable assistance to the Committee in examination of the Bill.

*The Committee then adjourned.*



~~77. Committee then adjourned.~~

MINUTES OF THE TENTH SITTING OF THE STANDING  
COMMITTEE ON DEFENCE (1996-97)

The Committee sat on Tuesday, the 8th April, 1997 from 1100 hours to 1300 hours and from 1500 hours to 1700 hours.

PRESENT

Shri P. Upendra — *In the Chair*

MEMBERS

*Lok Sabha*

2. Smt. Sushma Swaraj
3. Shri Banwari Lal Purohit
4. Shri Baburao Paranjpe
5. Lt. Gen. Shri Prakash Mani Tripathi
6. Shri Rajendra Agnihotri
7. Dr. Chhatrapal Singh
8. Shri Ram Chandra Benda
9. Col. Sona Ram Choudhury
10. Dr. Mallikarjun
11. Shri P. Namgyal
12. Maj. Gen. Bikram Singh
13. Shri Hannan Mollah
14. Shri A. Sampath
15. Shri C. Narasimhan
16. Shri Pratap Singh
17. Shri Nitish Kumar
18. Shri Major Singh Uboke

*Rajya Sabha*

19. Shri Sushil Kumar Sambhajirao Shinde
20. Shri Peter S. Alphonse
21. Shri Satchidananda
22. Shri Surendra Kumar Singh

23. Shri K.R. Malkani
24. Shri Satish Agarwal
25. Shri Suresh A. Kerwani
26. Prof. Ram Kapee

## SECRETARIAT

Shri V.N. Gaur — *Director*

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4. The Committee considered the draft Report on the Coast Guard (Amendment) Bill, 1996 and adopted the same.

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6. The Committee authorised the Chairman to finalise the Report in the light of verbal and consequential changes for presentation to the Parliament.

*The Committee then adjourned.*