

commissioned, or petty officer not in the execution of office

(c) Article 80—attempts

(2) *Disobeying a warrant, noncommissioned, or petty officer.*

(a) Article 92—failure to obey a lawful order

(b) Article 80—attempts

(3) *Treating with contempt or being disrespectful in language or deportment toward warrant, noncommissioned, or petty officer in the execution of office.*

(a) Article 117—using provoking or reproachful speech

(b) Article 80—attempts

e. *Maximum punishment.*

(1) *Striking or assaulting warrant officer.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

(2) *Striking or assaulting superior noncommissioned or petty officer.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 3 years.

(3) *Striking or assaulting other noncommissioned or petty officer.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(4) *Willfully disobeying the lawful order of a warrant officer.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 2 years.

(5) *Willfully disobeying the lawful order of a noncommissioned or petty officer.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(6) *Contempt or disrespect to warrant officer.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 9 months.

(7) *Contempt or disrespect to superior noncommissioned or petty officer.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 6 months.

(8) *Contempt or disrespect to other noncommissioned or petty officer.* Forfeiture of two-thirds pay per month for 3 months, and confinement for 3 months.

f. *Sample specifications.*

(1) *Striking or assaulting warrant, noncommissioned, or petty officer.*

In that \_\_\_\_\_ (personal jurisdiction data),

did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about \_\_\_\_ 20 \_\_, (strike) (assault) \_\_\_\_\_, a \_\_\_\_\_ officer, then known to the said \_\_\_\_\_ to be a (superior) \_\_\_\_\_ officer who was then in the execution of his/her office, by \_\_\_\_\_ him/her (in) (on) (the \_\_\_\_\_) with (a) \_\_\_\_\_ (his/her) \_\_\_\_\_.

(2) *Willful disobedience of warrant, noncommissioned, or petty officer.*

In that \_\_\_\_\_ (personal jurisdiction data), having received a lawful order from \_\_\_\_\_, a \_\_\_\_\_ officer, then known by the said \_\_\_\_ to be a \_\_\_\_\_ officer, to \_\_\_\_\_, an order which it was his/her duty to obey, did (at/on board—location), on or about \_\_\_\_ 20 \_\_, willfully disobey the same.

(3) *Contempt or disrespect toward warrant, noncommissioned, or petty officer.*

In that \_\_\_\_\_ (personal jurisdiction data) (at/on board—location), on or about \_\_\_\_ 20 \_\_, [did treat with contempt] [was disrespectful in (language) (deportment) toward] \_\_\_\_\_, a \_\_\_\_\_ officer, then known by the said \_\_\_\_\_ to be a (superior) \_\_\_\_\_ officer, who was then in the execution of his/her office, by (saying to him/her, “ \_\_\_\_\_,” or words to that effect) (spitting at his/her feet) ( \_\_\_\_\_ )

## 16. Article 92—Failure to obey order or regulation

a. *Text of statute.*

**Any person subject to this chapter who—**

**(1) violates or fails to obey any lawful general order or regulation;**

**(2) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or**

**(3) is derelict in the performance of his duties; shall be punished as a court-martial may direct.**

b. *Elements.*

(1) *Violation of or failure to obey a lawful general order or regulation.*

(a) That there was in effect a certain lawful general order or regulation;

(b) That the accused had a duty to obey it; and

(c) That the accused violated or failed to obey the order or regulation.

(2) *Failure to obey other lawful order.*

(a) That a member of the armed forces issued a certain lawful order;

(b) That the accused had knowledge of the order;

(c) That the accused had a duty to obey the order; and

(d) That the accused failed to obey the order.

(3) *Dereliction in the performance of duties.*

(a) That the accused had certain duties;

(b) That the accused knew or reasonably should have known of the duties; and

(c) That the accused was (willfully) (through neglect or culpable inefficiency) derelict in the performance of those duties.

c. *Explanation.*

(1) *Violation of or failure to obey a lawful general order or regulation.*

(a) *Authority to issue general orders and regulations.* General orders or regulations are those orders or regulations generally applicable to an armed force which are properly published by the President or the Secretary of Defense, of Homeland Security, or of a military department, and those orders or regulations generally applicable to the command of the officer issuing them throughout the command or a particular subdivision thereof which are issued by:

(i) an officer having general court-martial jurisdiction;

(ii) a general or flag officer in command; or

(iii) a commander superior to (i) or (ii).

(b) *Effect of change of command on validity of order.* A general order or regulation issued by a commander with authority under Article 92(1) retains its character as a general order or regulation when another officer takes command, until it expires by its own terms or is rescinded by separate action, even if it is issued by an officer who is a general or flag officer in command and command is assumed by another officer who is not a general or flag officer.

(c) *Lawfulness.* A general order or regulation is lawful unless it is contrary to the Constitution, the laws of the United States, or lawful superior orders or for some other reason is beyond the authority of the official issuing it. *See* the discussion of lawfulness in paragraph 14c(2)(a).

(d) *Knowledge.* Knowledge of a general order or regulation need not be alleged or proved, as knowledge is not an element of this offense and a lack of knowledge does not constitute a defense.

(e) *Enforceability.* Not all provisions in general orders or regulations can be enforced under Article 92(1). Regulations which only supply general guidelines or advice for conducting military functions may not be enforceable under Article 92(1).

(2) *Violation of or failure to obey other lawful order.*

(a) *Scope.* Article 92(2) includes all other lawful orders which may be issued by a member of the armed forces, violations of which are not chargeable under Article 90, 91, or 92(1). It includes the violation of written regulations which are not general regulations. *See also* subparagraph (1)(e) above as applicable.

(b) *Knowledge.* In order to be guilty of this offense, a person must have had actual knowledge of the order or regulation. Knowledge of the order may be proved by circumstantial evidence.

(c) *Duty to obey order.*

(i) *From a superior.* A member of one armed force who is senior in rank to a member of another armed force is the superior of that member with authority to issue orders which that member has a duty to obey under the same circumstances as a commissioned officer of one armed force is the superior commissioned officer of a member of another armed force for the purposes of Articles 89 and 90. *See* paragraph 13c(1).

(ii) *From one not a superior.* Failure to obey the lawful order of one not a superior is an offense under Article 92(2), provided the accused had a duty to obey the order, such as one issued by a sentinel or a member of the armed forces police. *See* paragraph 15b(2) if the order was issued by a warrant, noncommissioned, or petty officer in the execution of office.

(3) *Dereliction in the performance of duties.*

(a) *Duty.* A duty may be imposed by treaty, statute, regulation, lawful order, standard operating procedure, or custom of the service.

(b) *Knowledge.* Actual knowledge of duties may be proved by circumstantial evidence. Actual knowledge need not be shown if the individual reasonably should have known of the duties. This may be demonstrated by regulations, training or operating