

National Security Guard Act 1986

Chapter IX - Execution of Sentences, Pardons, Remissions, Etc.

In awarding a sentence of death, a Security Guard Court shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Section 116 - Commencement of sentence of imprisonment

Whenever any person is sentenced by a Security Guard Court under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the presiding officer, or in the case of a Summary Security Guard Court, by the Court.

Provided that the period of detention or confinement, if any undergone by an accused person, during the investigation, inquiry or trial of the case in which he is sentenced and before the date on which the original proceedings were signed shall be set-off against the term of his sentence and the liability of such person to undergo imprisonment shall be restricted to the remainder, if any of the term of his sentence.

Section 117 - Execution of sentence of imprisonment

(1) Whenever any sentence of imprisonment is passed under this Act by a Security Guard Court or whenever any sentence of death is commuted to imprisonment, the confirming officer, or in case of a Summary Security Guard Court the officer holding the Court or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (3) and (4), direct that the sentence shall be carried out by confinement in a civil prison.

(2) When a direction has been made under sub-section (1), the Commander of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(3) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a Security Guard Court, the appropriate officer under sub-section (1) may direct that the sentence shall be carried out by confinement in Security Guard custody instead of in a civil prison.

(4) On active duty, a sentence of imprisonment may be carried out by confinement in such place as the Deputy Inspector-General within whose command the person sentenced is serving or any prescribed officer, may, from time to time, appoint.

Section 118 - Temporary custody of offender

Where a sentence of imprisonment is directed to be undergone in a civil prison the offender may be kept in Security Guard custody or in any other fit place, till such time as it is possible to send him to a civil prison.

Section 119 - Execution of sentence of imprisonment in special cases

Whenever, in the opinion of an officer not below the rank of a Deputy Inspector-General within whose command the trial is held, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in Security Guard custody in accordance with the provisions of section 117, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

Section 120 - Conveyance of prisoner from place to place

A person under sentence of imprisonment may, during his conveyance from place to place, or when on board a ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

Section 121 - Communication of certain orders to prison officers

Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed, to the officer in charge of the prison in which such person is confined.

Section 122 - Execution of sentence of fine

When a sentence of fine is imposed by a Security Guard Court under section 45, a copy of such sentence signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any Magistrate in India, and such Magistrate shall thereupon cause the fine to be recovered in accordance, with the provisions of the Code of Criminal Procedure, 1973, as if it were a sentence of fine imposed by such Magistrate.

Section 123 - Informality or error in the order or warrant

Whenever any person is sentenced to imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of informality or error in, or as respects, the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or, is confined in any such place, and any such order, warrant or document may be amended accordingly.

Section 124 - Pardon and remission

When any person subject to this Act has been convicted by a Security Guard Court of any offence, the Central Government or the Director-General or, in the case of a sentence, which he could have confirmed or which did not require confirmation, an officer not below the rank of a Deputy Inspector-General within whose command such person at the time of conviction was serving, or the prescribed officer may,--

- (a) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or
 - (b) mitigate the punishment awarded; or
 - (c) commute such punishment for any less punishment or punishments mentioned in this Act; or
 - (d) either with or without conditions which the person sentenced accepts, release the person on parole.
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Section 125 - Cancellation of conditions pardon, release on parole or remission

(1) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission not fulfilled, such authority may cancel the pardon, release or remission and thereupon the sentence of the Court shall be carried into effect as if such pardon, release or remission had not been granted.

(2) A person whose sentence of imprisonment is carried into effect under the provisions of sub-section (1) shall undergo only the unexpired portion of his sentence.

Section 126 - Suspension of sentence of imprisonment

(1) Where a person subject to this Act is sentenced by a Security Guard Court to imprisonment, the Central Government, the Director-General or any officer empowered to convene a General Security Guard Court may suspend the sentence whether or not the offender has already been committed to prison or to Security Guard custody.

(2) The authority or officer specified in sub-section (1) may, in the case of an offender so sentenced, direct that until the orders of such authority or officer have been obtained the offender so sentenced, direct that until the orders of such authority or officer have been obtained the offender shall not be committed to prison or to Security Guard custody.

(3) The powers conferred by sub-sections (1) and (2) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

Section 127 - Orders pending suspension

(1) Where the sentence referred to in section 126 is imposed by a Security Guard Court, other than a Summary Security Guard Court, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to Security Guard custody until the orders of the authority or officer specified in section 126, have been obtained.

(2) Where a sentence of imprisonment is imposed by a Summary Security Guard Court, the officer holding the trial may make the direction referred to in sub-section (1).

Section 128 - Release on suspension

Where a sentence is suspended under section 126, the offender shall forthwith be released from custody.

Section 129 - Computation of period of suspension

Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

Section 130 - Order after suspension

The authority or officer specified in section 126 may, at any time While a sentence is suspended, order--

- (a) that the offender be committed to undergo the unexpired portion of the sentence; or
- (b) that the sentence be remitted.

Section 131 - Reconsideration of case after suspension

(1) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 126, or by any officer not below the rank of a Deputy Inspector-General duly authorised by the authority or officer specified in section 126.

(2) Where on such reconsideration by the officer so authorised it appears to him that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 126.

Section 132 - Fresh sentence after suspension

Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then--

(a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or Security Guard custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(c) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only and the previous sentence shall, subject to any order which may be passed under section 130 or section 131 continue to be suspended.

Section 133 - Scope of power of suspension

The powers conferred by sections 126 and 130 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

Section 134 - Effect of suspension and remission on dismissal

(1) Where in addition to any other sentence the punishment of dismissal has been awarded by a Security Guard Court, and such other sentence is suspended under section 126, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 126.

(2) If such other sentence is remitted under section 130, the punishment of dismissal shall also be remitted.