

Navy Act, 1957

Chapter XVI - Modifications of Findings and Sentences, Pardons and Commutation, Remission and Suspension of Sentences

Any person subject to naval law who considers himself aggrieved by a finding or sentence of any court-martial may present a petition to the Central Government or to the Chief of the Naval Staff, and the Central Government or the Chief of the Naval Staff, as the case may be, may pass such order thereon as may be thought fit.

Section 163 - Powers of Central Government and the Chief of the Naval Staff in respect of findings and sentences

163[xxx]

1. Omitted vide Navy (Amendment) Act, 2005. Previous text was Powers of Central Government and the Chief of the Naval Staff in respect of findings and sentence Section

(1) Where any person is tried under the provisions of this Act, the Central Government or the Chief of the Naval Staff, may, in the case of a conviction,

(a) set aside the finding and sentence and acquit or discharge the accused or order him to be retried, or

(b) alter the finding, maintaining the sentence (provided that such sentence may be legally passed on the altered finding), or

(c) with or without altering the finding, reduce the sentence or commute the punishment awarded for any punishment inferior in scale, or

(d) either with or without conditions, pardon the person or remit the whole or any part of the punishment awarded, or

(e) either with or without conditions, release the person on parole : Provided that a sentence of imprisonment shall not be commuted for a sentence of detention for a term exceeding the term of imprisonment awarded, and a sentence of dismissal with disgrace not accompanied by a sentence of imprisonment shall not be commuted for a sentence of detention. Provided further that nothing in this section shall authorise the Central Government or the Chief of the Naval Staff to enhance the sentence.

(2) Any sentence modified under the provisions of sub-section (1) shall be carried into execution as if it had been originally passed.

(3) 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 or release or remission and thereupon the sentence awarded shall be carried into effect as if such pardon, release or remission had not been granted. Provided that in the case of a person sentenced to imprisonment or detention such person shall undergo only the unexpired portion of the sentence.

Section 164 - Suspension of sentences

(1) Where a person has been sentenced to imprisonment or detention, the Central Government or the officer who by virtue of the foregoing section or subsection (3) of section 150 has power to issue an order of committal (hereinafter in this section referred to as "the committing authority") may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal is issued, and in such case

(a) notwithstanding anything in this Act, the term of the sentence shall not be reckoned as commencing until an order of committal is issued;

(b) the case may at any time, and shall at intervals of not more than three months, be reconsidered by the Central Government or committing authority or the prescribed officer, and if on any such reconsideration it appears to the Central Government or committing authority or such prescribed officer that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, the Central Government or committing authority or such prescribed officer shall remit the whole or any part of it;

(c) subject to regulations made under this Act, the Central Government or the committing authority or such prescribed officer may at any time whilst the sentence is suspended issue an order of committal and thereupon the sentence shall cease to be suspended;

(d) where a person subject to naval law, whilst a sentence on him is so suspended, is sentenced to imprisonment or detention for any other offence then, if he is at any time committed either under the suspended sentence or under any such subsequent sentence, and whether or not any such subsequent sentence has also been suspended, the committing authority may direct that the two sentences shall run either concurrently or consecutively, so, however, as not to cause a person to undergo detention for a period exceeding the aggregate of two consecutive years.

(2) When a person has been sentenced to imprisonment or detention and an order of committal has been issued, the Central Government or the committing authority, or prescribed officer may order the sentence to be suspended, and in such cases the person whose sentence is suspended shall be discharged and the currency of the sentence shall be suspended until he is again committed under the same sentence, and the provisions of clauses (b), (c) and (d) of sub-section (1) shall apply in like manner as in the case where a sentence has been suspended before an order of committal has been issued.

(3) Where a sentence is suspended under this section, whether before or after committal, the Central Government or, subject to regulations made under this Act, the committing authority or officer by whom the sentence is suspended may, direct that any penalty which is involved by the punishment of imprisonment or detention either shall be or shall not be remitted or suspended.