

Coast Guard Act, 1978

Chapter 9 - CHAPTER 9: EXECUTION AND SUSPENSION OF SENTENCES:

SECTION 96: Form of sentence of death: In awarding a sentence of death, a Coast Guard Court shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he is dead or shall suffer death by being shot to death.

SECTION 97: Interim custody until execution of sentence of death: A person sentenced to death may be detained in Coast Guard custody or may be removed to a civil prison to be kept in custody until further orders are received from the Central Government, the Director-General or the convening authority of the Coast Guard Court by which he was sentenced to death or other prescribed officer, and the order of the Central Government, the Director-General or the convening authority or such officer shall be a sufficient warrant for detaining the person in custody.

SECTION 98: Execution of sentence of death: (1) When a sentence of death is to be executed, the Director-General or the convening authority or the prescribed officer shall give directions as to the time, place and manner in which such sentence is to be carried out and the order of such officer or authority shall be a sufficient warrant for the execution of such sentence. (2) There shall be attached to the prescribed form, an order of the Central Government certifying the confirmation of the sentence by the Central Government.

SECTION 99: Commencement of sentence of imprisonment or detention: Whenever any person is sentenced under this Act to imprisonment or detention the term of the sentence shall be reckoned to commence on the date on which the sentence was awarded.

SECTION 100: Execution of sentence of imprisonment: (1) Whenever any sentence of imprisonment is passed under this Act or whenever any sentence of death is commuted to imprisonment, the presiding officer of the Coast Guard Court which passed the sentence or such other officer as may be prescribed shall 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 Commanding Officer 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.

SECTION 101: Temporary custody of offender: Where a sentence of imprisonment is directed to be undergone in a civil prison, the offender may be kept in Coast Guard custody or in any other fit place, till such time as it is possible to send him to a civil prison.

SECTION 102: 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 subject to such restraint as is necessary for his safe conduct and removal.

SECTION 103: 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 person as may be prescribed, to the officer in charge of the prison in which such person is confined.

SECTION 104: Execution of sentence of fine: When a sentence of fine is imposed by a Coast Guard Court (section 53), a copy of such sentence signed and certified by the presiding officer of the court 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 105: 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 any 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 106: Imprisonment or detention of offender already under sentence: Whenever a sentence is passed by a Coast Guard Court on a person already under sentence either of imprisonment or detention passed on him under this Act for a former offence, the court may award a sentence of imprisonment or detention for the offence for which he is under trial to commence at the expiration of the

sentence of imprisonment or detention to which he has been previously sentenced: Provided that so much of any term of detention imposed on a person by a sentence in pursuance of this section as will prolong the total term of detention beyond two years shall be deemed to be remitted.

SECTION 107: Suspension of sentence of imprisonment or detention: (1) Where a person subject to this Act is sentenced to imprisonment or detention, the Central Government, the Director- General, the Commanding Officer imposing the sentence or any prescribed officer may suspend the sentence whether or not the offender has already been committed to prison or to Coast 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 shall not be committed to prison or to Coast 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 reduced or commuted.

SECTION 108: Release on suspension: Where a sentence is suspended under (section 107), the offender shall forthwith be released from custody.

SECTION 109: Computation of period suspension: Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

Section 110: Order after suspension: The authority or officer specified in (section 107) 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 111: 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 107), or by any officer not below the rank of a Deputy Inspector-General duly authorised by the authority or officer specified in (section 107). (2) Where on such reconsideration by the officer so authorised it appears to him that the conduct of 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 107).

SECTION 112: 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 sentence shall run concurrently; (b) if 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 Coast 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 or 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 110) or (section 111) continue to be suspended.

SECTION 113: Scope of Power of suspension: The powers conferred by (section 107) and (Section 110) shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

SECTION 114: Effect of suspension and remission on dismissal: (1) Where in addition to any other sentence, the punishment of dismissal has been awarded under this Act and such other sentence is suspended under (section 107), then, such dismissal shall not take effect until so ordered by the authority or officer specified in (section 107). (2) If such other sentence is remitted under (section 110), the punishment of dismissal shall also be remitted.