

CHAPTER XXIX**OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES**

Power to suspend or remit sentences

401.(1) When any person has been sentenced to punishment for an offence, the Government may at any time without conditions or upon any conditions which the person sentenced excepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to the Government for the suspension or remission of a sentence, the Government, may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the Government not fulfilled, the Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(4A) The provision of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or impose any liability upon him or his property.

(5) Nothing herein contained shall be deemed to interfere with the right of the President ¹[* * *] to grant pardons, reprieves, respites or remissions of punishment.

(5A) Where a conditional pardon is granted by the President ²[* * *], any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly.

(6) The Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with.

402.(1) The Government may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it:—

Power to commute punishment

death, transportation, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

(2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Penal Code.

³[**402A.** The powers conferred by sections 401 and 402 upon the Government may, in the case of sentences of death, also be exercised by the President.]

Sentences of death

¹ The words "or of the Central Government when such right is delegated to it" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words and commas "or, in virtue of any power delegated to it, by the Central Government" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ Section 402A was inserted by the Government of India (Adaptation of Indian Laws) Order, 1937.