

**All about Execution, Suspension, Remission and Commutation of  
Sentences under**

**Chapter 32, Code of Criminal Procedure,1973**

**By: Nishita Kapoor**

**Q1. Differentiate between “Suspension”, “Remission” and “Commutation” of sentences?**

**Suspension** means to take or withdraw the sentence for the time being. After a person is found guilty, the execution is stayed for a temporary period in suspension. It is the temporary postponement of the sentence. **Remission** implies reducing the period of sentence without changing its character. **Commutation** denotes the substitution of a form of punishment for a lighter one.

**Q2. How is the power of suspension of sentence exercised and by whom?**

Firstly, application is made to the Appropriate Government for suspension. The appropriate government is then required to take the opinion of the judge of the court who has convicted or upheld the conviction as to whether such application should be accepted or refused, along with reasons and then may suspend the execution of sentence. The suspension may be with or without conditions with the approval of the concerned person. If the conditions are not fulfilled, then suspension is cancelled by the appropriate government.

**Q3. Which is the “Appropriate Government” in the context of Remission and Commutation?**

It is the government which has the right to grant remission and commutation of sentence. The Appropriate government can be either Central Government or State Government. Where a sentence is passed or an order restraining liberty of a person is passed for an offence under the law for which the Union has exclusive power then the appropriate government is **Central Government** and in all other cases, the **State Government** of the state in which the offender is sentenced or order against him is passed.

**Q4. Can a capital sentence be executed on a pregnant woman?**

No, capital sentence cannot be executed on a pregnant woman. Such a sentence shall be commuted by the High Court to life imprisonment.

**Q5. How does commutation of sentence takes place?**

Commutation of sentence means reduction of the sentence. It is done by the appropriate government with the consent of the person sentenced. It is done as follows:-

Original sentence	Commuted sentence
Death sentence	Any other punishment provided under Indian Penal Code
Imprisonment for life	Imprisonment for term not exceeding 14 years
Sentence of rigorous imprisonment	Simple imprisonment or for fine
Sentence of simple imprisonment	Fine

**Q6. Under what situation the State Government and Central Government have concurrent power for remission or commutation of sentence?**

The State Government and Central Government have concurrent power for remission or commutation of death sentence.

**Q7. When the State Government is required to consult Central government for remission or commutation of sentence?**

The State Government is required to consult the Central Government for remission or commutation for an offence if the case is investigated by Delhi special police establishment or which involves misappropriation of property of central Government or where offence is committed by a person in service of Central government

**Q8. What are the circumstances when execution of sentence of death is postponed?**

When a person is sentenced to death, the execution of sentence is postponed in following circumstances:

1. When appeal lies to Supreme Court under Article 134(), the execution is postponed till the appeal is disposed of or till the expiry of period of preferring appeal.
2. When High Court is satisfied that the person intends to present an Special Leave Petition, then it may postpone for such period as will be sufficient for him to present such appeal.
3. When the person sentenced makes an application for grant of certificate under Article 132 or 134, then till such application is disposed of by High Court or period for preferring appeal on such certificate has elapsed.

**Q9. By whom & to whom is the warrant for execution of sentence issued?**

The warrant is issued by the Judge or Magistrate who passed the sentence and is directed to the officer in charge of the jail or other place where the person is to be confined.

**Q10. How a sentence passed on an “Escaped Convict” takes effect?**

If the sentence passed on a escaped convict is severe than the one which such person was previously subjected to, then the new sentence will take effect immediately and if not severe then first will be required to complete the period left from the previous sentence and then the next sentence.

**Q11. What does the term “Setting off period of detention” mean?**

This means that whatever period of detention has been undergone by the accused during the completion of investigation, inquiry or trial will be reduced from the sentence passed on such accused. This provision is in interest of the under-trials who will if the period of detention not set off will be subjected to a greater punishment then the one they are liable for.

**Q12. How is the recovery of fine imposed on a person done?**

The court which has passed the sentence of fine may issue warrant for recovery by attachment and sale of moveable property of the defaulter or issue warrant to collector for realizing the amount by following the procedure of realizing the arrears of land revenue from property(moveable or immoveable or both) of defaulter or by both.

**Q13. What is the effect of warrant issued for levy of fine?**

The general rule is that such a warrant can be executed within the jurisdiction of the court issuing it but it subject to the exception that, if a project is found

outside the jurisdiction of such court then only on the endorsement of the concerned District Magistrate of that area, the attachment and sale of such property found can take place.

**Q14. How is sentence passed on a person who is already sentenced for another offence?**

1. Where previously undergoing sentence of imprisonment and subsequently sentenced to further imprisonment or imprisonment for life, in such a case the subsequent sentence will commence after the previous sentence has expired.
2. Where previously undergoing sentence of imprisonment for life and subsequently sentenced to imprisonment for life or for a term, then subsequent sentence will run concurrently.