

Content

Title :	1991 Criminal Commutation Act CH
Announced Date :	1990.12.29
Legislative :	1.The full text of 17 Articles promulgated by Presidential Order (79) Hua-Tsung (1)-Yi-Tzu No.7469 on December 29, 1990.

- | | |
|-----------|---|
| Article 1 | This Act is enacted to commemorate the 80th year founding anniversary of the Republic of China and to give convicted offenders the opportunity to reform and correct their behavior. |
| Article 2 | <p>Unless otherwise provided for by this Act, those offenders who were convicted prior to October 31, 1990 shall have sentences reduced according to the following provisions:</p> <p>1. Category A:</p> <p>(1) Death penalty is commuted to life imprisonment.</p> <p>(2) Life imprisonment is commuted to 15 years of fixed-term imprisonment.</p> <p>(3) Fixed-term imprisonment, detention or fine shall have 1/3 of the sentence commuted or amount reduced.</p> <p>2. Category B:</p> <p>(1) Death penalty is commuted to life imprisonment.</p> <p>(2) Life imprisonment is commuted to 10 years of fixed-term imprisonment.</p> <p>(3) Fixed-term imprisonment, detention or fine shall have 1/2 of the sentence commuted or amount reduced.</p> <p>Convicted offenders who are on suspension of sentences, or parole shall be deemed as having been commuted of their pronounced sentence in accordance with the preceding Paragraph starting from the date of enactment of this Act, and there is no need to petition for commutation judgment. However, those who have their suspension of sentence or parole revoked should still submit their petitions for commutation judgment in accordance with this Act.</p> |
| Article 3 | <p>Punishments for criminal offenses as stipulated in the following are not commuted:</p> <p>1. The offenses as stipulated in Article 2, Paragraph 1 and Paragraph 2; Article 3, Paragraph 1 and Paragraph 2; Article 4, Paragraph 1; Article 5, Paragraph 1; and Article 6 of the Act Governing the Punishment of Banditry.</p> <p>2. The offenses as stipulated in Article 7, Paragraph 1 to Paragraph 3 of the Act Governing the Control and Prohibition of Guns, Cannon, Ammunition, and Knives.</p> <p>3. The offenses as stipulated in Article 5 to Article 8, Article 14, and Article 15 of the Narcotics Elimination Act During the Period of Suppressing Communist Rebellion.</p> <p>4. The offenses as stipulated in Article 72, Paragraph 1 and Paragraph 2; Article 73, Paragraph 1 and Paragraph 2 of the Medicine, Medical Equipment, and Pharmaceutical Companies Control Act.</p> <p>5. The offenses as stipulated in Article 13-1, Paragraph 2, Subparagraph 1 and Subparagraph 2 of the Narcotics Control Act.</p> <p>6. The offenses as stipulated in Article 5, Paragraph 1, Subparagraph 1 of the Interim Penal Act of Offenses Against National General Mobilization, or offenses against the order as prescribed in Article 18 of the National General Mobilization Act.</p> <p>7. The offenses as stipulated in Article 125 of the Banking Act.</p> <p>8. The offenses as stipulated in Article 3 of the Penal Act of Offenses Against National Currency.</p> <p>9. The offenses as stipulated in Article 84 of the Criminal Code of the Armed Forces.</p> <p>10. Having been convicted of the offenses as stipulated in Article 135,</p> |

Paragraph 1 and Paragraph 2 and Article 136, first half of Paragraph 1 of the Criminal Code, and then committed the same offenses again.

11. The offenses as stipulated in Article 135, Paragraph 3; Article 136, Paragraph 1 second half, and Paragraph 2; Article 173, Paragraph 1; Article 176 where willful destruction of using explosives to destroy objects as described in Article 173; Articles 221 to 223; Article 225, Paragraph 1; Article 226; Article 227, Paragraph 1; Article 229, Paragraph 1; Article 272, Paragraph 1; Article 298, Paragraph 2; Article 332; Article 334; Article 346, Paragraph 1 and Paragraph 2; and Article 348 of the Criminal Code.

12. The offenses as stipulated in Article 271, Paragraph 1 of the Criminal Code that are committed twice or more, or where the same offenses are committed with two or more victims in one act, or where the victim is a civil servant enforcing duties in accordance with the law.

Article 4	<p>Punishments for criminal offenses as stipulated in the following that deserve commutation in accordance with this Act shall be commuted pursuant to the provisions in Article 2, Paragraph 1, Subparagraph 1, Category A of this Act:</p> <ol style="list-style-type: none">1. The offenses as stipulated in Article 4 to Article 8, and Article 13 to Article 16 of the Anti-Corruption Act During the Period of Suppressing Communist Rebellion.2. The offenses as stipulated in Article 9 of the Narcotics Elimination Act During the Period of Suppressing Communist Rebellion.3. The offenses as stipulated in Article 1, Paragraph 3 to Paragraph 5 and Article 2 of the Penal Act of Offenses Against National Currency.4. The offenses as stipulated in Article 4, Paragraph 2 and Article 5, Paragraph 2 of the Act Governing the Punishment of Banditry.5. The offenses as stipulated in Article 271, Paragraph 1 of the Criminal Code.6. The offenses as stipulated in Article 8 to Article 10 of the Smuggling Penalty Act. <p>Punishments for criminal offenses not stipulated in the preceding paragraphs that deserve commutation in accordance with this act shall be commuted pursuant to the provisions in Article 2, Paragraph 1, Subparagraph 2, Category B of this Act.</p>
Article 5	<p>Punishments for offenses deserving commutation in accordance with this Act that have been commuted pursuant to other provisions shall be commuted in addition to prior commutation.</p> <p>Offenders, who received pronounced sentences with a severity of fixed-term imprisonment or more, and have received final and binding commuted sentence in accordance with the 1988 Criminal Commutation Act, but then commit offenses again, shall not be commuted pursuant to this Act.</p> <p>However, those who commit offenses due to negligence are not subject to this restriction.</p>
Article 6	<p>Offenders who are listed as wanted prior to the enactment of this Act and did not surrender automatically for the investigation, trial or execution of sentence within ten months since the enactment of this Act shall not receive commutation in accordance with this Act.</p>
Article 7	<p>Offenders, who commit offenses that are not to be commuted as stipulated in Article 3 and are not discovered by the authorities but surrender oneself to the authorities to receive judgment within three months of the enactment of this Act, shall receive commutation in accordance with the provision stipulated in Article 2, Paragraph 1, Subparagraph 1, Category A of this Act.</p>
Article 8	<p>Punishments that are to be commuted in accordance with this Act but a final judgment has yet to be rendered shall have their pronounced sentences commuted when the final judgment is rendered.</p> <p>Pursuant to the preceding paragraph, the judgment shall contain in its main content the original sentence and the commuted sentence.</p>
Article 9	<p>Punishments for offenses deserving commutation in accordance with this Act that already have final and binding judgment rendered, but have not been enforced, or are in the process of enforcement shall have petitions submitted to the court, or military court most recently adjudicating the</p>

case by the prosecutor, the military prosecutor, or the offender receiving commutation for judgment.

Punishments for offenses deserving commutation in accordance with this Act that have been forwarded to the prosecutor in accordance with Article 9, Subparagraph 3 of the National Security Act during the period of national mobilization of suppressing communist rebellion, but have not been enforced, or are in the process of enforcement shall have petitions submitted to the court adjudicating the case by the prosecutor, or the offender receiving commutation for judgment.

Punishments for multiple offenses deserving commutation in accordance with this Act that have final and binding judgments from two or more courts can have joint petitions submitted by one of the prosecutors, or by the offender receiving commutation to one of the courts rendered previous judgment.

In the case of Paragraph 1, if the jurisdiction of the court adjudicating the case most recently has been changed, the petition should be sent to the new court after the jurisdiction changes for judgment. If the original military court has been abolished or has genuine difficulties, its superior military court will adjudicate the case.

Article 10	Punishments for offenses committed that originally had maximum sentences of less than three years of imprisonment that deserve commutation in accordance with this Act, and the commuted sentences are for less than six months imprisonment, or detention, then the conversion standard for the commutable fines should also be pronounced during the delivery of the commutation judgment.
------------	--

Article 11	<p>Punishments for multiple offenses that have final judgment for commutation and with execution terms yet to be determined shall be commuted respectively in accordance with the provisions of Article 2, Article 4, Article 5, and Article 7 to Article 9 of this Act, then apply Article 51 of the Criminal Code for determining the appropriate execution terms.</p> <p>Punishments for multiple offenses that have final judgment for commutation and have execution terms determined shall be re-determined for appropriate execution terms in accordance with the preceding paragraph. The remainder of the punishments for offenses that deserve commutation as stipulated in Article 54 of the Criminal Code shall be determined in the same way.</p>
------------	--

Article 12	Punishments for multiple offenses that have final judgment for commutation and non-commutation shall have sentences determined in accordance with the provisions of Article 2, Article 4, Article 5, Article 7 to Article 9 and Article 11 of this Act for the offenses that deserve commutation, and shall be pronounced together with the non-commutation sentences, then, together with the non-commuted sentences, have Article 51 of the Criminal Code applied for determining applicable execution terms.
------------	---

Article 13	Article 9, Paragraph 3 of this Act is applicable to the preceding two Articles concerning their appropriate execution terms.
------------	--

Article 14	<p>The detention durations and punishments that have been executed prior to commutation are to be converted as or counted towards served commuted sentences. However, if the time served before a commutation judgment reaching the prison has exceeded the full term of punishment after the conversion or calculation, the exceeding portion shall not be credited. The dollar amount paid for the fine prior to commutation shall be counted towards the fine amount due after commutation. However, if the dollar amount paid for the fine is higher than the commuted fine, the amount in excess shall not be credited.</p> <p>The first Paragraph, concerning converting detained duration for time served, is also applicable to offenders whose original sentences of life imprisonment have been commuted to fixed-term imprisonment in accordance with the provisions of this Act.</p>
------------	--

Article 15	For punishments of offenses deserving commutation in accordance with this Act, the deprivation of civil rights portion shall be resentenced in accordance with the commutation terms of the principal punishment. Its
------------	---

minimum length shall not be less than one year.

Article 16	This Act is not applicable to those receiving Rehabilitative Education, Reformatory Education, Correctional Education, or Juvenile Reformatory Education.
------------	---

Article 17	This Act shall become effective as of January 1, 1991.
------------	--
