

Estado Maior do Exército

BIBLIOTECA



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## SUSPENSION OF SENTENCES.

### 1.—Procedure on Suspension.

The power of suspending sentences of penal servitude or imprisonment is given by the Army (Suspension of Sentences) Act, 1915, to Superior Military Authorities only. Such authorities in this country are:—The Commander-in-Chief, Army Commanders, and G.O.C., L. of C. Area. When a sentence has been suspended by a Superior Military Authority, A.F. W.3104 will be made out under his authority and sent to the Competent Military Authority, who will complete para. III., and send it to D.A.G., 3rd Echelon (*see* para. 8(a) below). The date of the signing of the suspension of sentence and the designation of the Superior Military Authority will be entered in the Regimental Records.

### 2.—Reconsideration of Suspended Sentences.

(a) The sentence will be reconsidered by the Competent Military Authority under whose command the soldier is serving, at an interval of not more than three months from the date of suspension (Amending Act, 1916), and again periodically at intervals of three months or less afterwards. It may be reconsidered by him at any time, if he thinks that the circumstances make it desirable to do so.

(b) When a suspended sentence is brought forward for reconsideration by the Competent Military Authority, and the latter does not remit the sentence, the reports rendered on the soldier concerned will be attached to A.F. W.3104 for retention with it. They will then be available for the guidance of the new Competent Military Authority at a subsequent reconsideration of the sentence, if the soldier has meanwhile been transferred to another unit.

(c) In cases in which the soldier has left a station or unit either:—

(i.) Between the date when the form is received by the Competent Military Authority and the date for reconsideration of the sentence, or

(ii.) Shortly before the form is received,

the Competent Military Authority will reconsider the sentence to the date of the soldier's departure, and will then despatch it to D.A.G., 3rd Echelon, in the usual manner, at the same time notifying D.A.G., 3rd Echelon, that the man has left the station or unit.

### 3.—Remission of Suspended Sentences.

A Competent Military Authority has power to remit the whole of a suspended sentence at any time. There can be no partial remission. If a man's conduct is not sufficiently satisfactory to merit a total remission of his sentence, the case should be left over for further reconsideration at a later date. As to what is meant by conduct to justify remission of the suspended sentence under Section 1 (5) of the Act, it is considered that, apart from an act of gallantry, the "good conduct" expected from a soldier under suspended sentence means more than a negative abstention from crime. The soldier should have shown a consistent devotion to duty throughout the period under review.

### 4.—Trial of Soldiers under Suspended Sentences.

(a) In the event of a soldier undergoing suspended sentence being again remanded for trial by Court-Martial, the O.C. his unit will report the fact to the D.A.G., 3rd Echelon, who will then despatch A.F. W.3104 to the Competent Military Authority.

(b) If such a soldier is sentenced to Imprisonment or Penal Servitude, A.F. W.3104 will be forwarded to the Superior Military Authority with the proceedings of the Court-Martial, Part VII of the form being filled in and signed by the Competent Military Authority.

### 5.—Committal to Prison when under Suspended Sentence.

If a soldier's conduct after the suspension of his sentence is unsatisfactory, his Commanding Officer may at any time forward through the usual channels to the Superior Military Authority a recommendation (giving full reasons) that the man shall be committed to prison. A.F. W.3104 and a copy of A.F. B.122 will be obtained and forwarded to the Superior Military Authority with the recommendation. If the Superior Military Authority decides that the soldier shall be committed to prison, he will complete and sign paragraph VI. of A.F. W.3104. No one but a Superior Military Authority has power to order a suspended sentence to be put into execution.

### 6.—Committals to Prison.

Sentences run either concurrently or consecutively, according to the directions of the Superior Military Authority, which are shown on A.F. W.3104. If a portion of a sentence has already been completed by the soldier, the commitment form for that sentence will only be made out in respect of the unexpired portion of it.

When more sentences than one are outstanding against a soldier who is being committed to prison, separate commitment forms (A.F. C.385b) will be made out in respect of each sentence. The forms should state whether the sentences have been directed by the Superior Military Authority to run consecutively or concurrently.

When a soldier is committed to prison in respect of a previously suspended sentence, the date and authority required at (a) and (b) on A.F. C.385b will invariably be entered. The latter date determines the currency of the sentence. The authority quoted must be that of the Superior Military Authority; the authority of Corps, Division or Brigade is insufficient.