

拾伍、累進處遇、假釋或出監(院、所、校)相關事項

15. Progressive Treatment, Parole and Release

問 15-1、受刑人累進處遇編級為何？

Q15-1: What are the classification levels of prisoners under the progressive treatment system?

答：

- 一、累進處遇係指將受刑人之處遇，分為 4 個階段，按其在機關執行期間之表現，漸次進級，級數愈高，處遇愈寬和，藉以激發責任觀念，促使其改悔向上，培養其適於社會生活能力之矯正制度。
- 二、受刑人入監後，刑期 6 個月以上者，其累進處遇分成 4 級，自第 4 級依次漸進，並依其刑期、新舊法（適用法規）、犯次（累、再犯）、犯別（成年犯、少年犯）等，定其責任分數，以其每月所得成績分數抵銷之，抵銷淨盡者，令其逐漸進級至第 3 級、2 級、1 級。另少年受刑人責任分數減少 3 分之 1 計算；累犯受刑人責任分數增加 3 分之 1 計算；撤銷假釋受刑人責任分數增加 2 分之 1 計算；具有多重條件者，則按比率計算。
- 三、受刑人編級後，管教人員依據日常考核按月評給各項（作業、教化、操行）成績分數，以抵銷所在級別的責任分數，抵銷淨盡者，可以進列較高的級別。若尚有多餘的成績分數，則併入所進的級別計算。

A:

1. Progressive treatment means the corrective treatments received by prisoners are classified into four levels based on prisoner's performance while incarcerated. Prisoner's level is advanced gradually, and the higher the level, the treatment they receive are more lenient. The progressive treatment system aims to embed the sense of accountability in prisoners, encourage them to repent and move forward and cultivate their ability to adapt to social life after release.
2. Prisoners with term of imprisonment of six months or longer are classified into four levels under progressive treatment. Prisoners start with Level 4 and advance progressively. Each prison is assigned a responsibility score which is tabulated based on sentence, applicable laws at the time of sentence, number of offense (recidivist or repeat offender), age of offender (adult or juvenile), etc. The responsibility score is written off by the performance score prisoners acquire every month and the prisoner may be advanced to Level 3, 2 or 1 when their responsibility score is totally written off. The responsibility scores shall be reduced one third in the case of juvenile prisoners. The responsibility scores of prisoners whose parole is revoked shall be increased by 50%. The responsibility scores of prisoners with multiple conditions will be computed on a pro rata basis.

3. After prisoners are classified, the correctional officers will, based on their daily performance, give the prisoners scores on work, edification and education, and conduct every month, which will be used to write off the prisoner's responsibility score. When a prisoner's responsibility score is totally written off, the prisoner may be advanced to a higher level, and the excess performance score will be combined into the score calculation for the level advanced into.

問 15-2、受刑人假釋的條件為何？

Q15-2: What are the parole conditions?

答：

- 一、假釋就是受無期徒刑或有期徒刑的執行者，在刑期尚未屆滿前，執行逾法定期間，且確有改悔向上的實據，由監獄報請矯正署許可後，暫時釋放出獄。出獄後，如不再犯罪或無違反保護管束期間應遵守事項，原來尚未執行的刑期，即當作已經執行完畢。但如被撤銷假釋，原來未執行的刑期將重新送監執行。
- 二、陳報假釋之要件係依犯罪時間點認定，法定條件如下：
 - (一)成年受刑人：
 - 1.適用 95 年 7 月 1 日施行之刑法：無期徒刑執行逾 25 年；初再犯有期徒刑執行逾 2 分之 1，累犯逾 3 分之 2；但有期徒刑之執行至少須滿 6 月；如適用 86 年 11 月 28 日施行之刑法：一般受刑人無期徒刑須執行超過 15 年、累犯逾 20 年，有期徒刑超過刑期的 2 分之 1，累犯逾 3 分之 2；如適用 83 年 1 月 30 日施行之刑法：一般受刑人無期徒刑須執行超過 10 年，有期徒刑逾 3 分之 1。
 - 2.最近 3 個月內教化、作業、操行等各項成績分數，均應在 3 分以上。但不堪作業者，作業成績分數不在此限。
 - 3.有懊悔實據。
 - (二)少年受刑人：
 - 1.無期徒刑執行逾 7 年，有期徒刑逾 3 分之 1；但有期徒刑之執行至少須滿 6 月。
 - 2.累進處遇進至 2 級以上（適用於少年矯正學校之受徒刑執行學生）。
 - 3.最近 3 個月內輔導（教化）分數應在 4 分以上，操行分數應在 3 分以上，學習（作業）分數應在 2 分以上。但不堪作業者，作業成績分數不在此限。
 - 4.有懊悔實據。
- 三、裁判確定前羈押日數，以 1 日折抵有期徒刑 1 日。又執行無期徒刑者，其羈押之日數不得折抵。但羈押日數超過 1 年的部分則計入執行刑期內。

四、符合上述條件者，得提報假釋審查會審議後，再由機關陳報矯正署審查，經許可者，始得假釋。但執行未滿 6 個月、重罪累犯、性侵犯經治療或輔導其再犯危險未顯著降低者，不在此限。

A:

1. Parole means a prisoner who is sentenced to life or a term of imprisonment and has served a statutory period of time and shows evidence of repentance may be provisionally released prior to the completion of sentence period, provided the provisional release is approved by the Agency of Corrections. If the prisoner does not commit any more crimes or violate any rules during parole, the original sentence that is not yet served is considered served. However if the parole is revoked, the prisoner shall go back to prison to serve the sentence period that is not yet completed.

2. The conditions for requesting parole are determined by the time the prisoner's offense was committed as follows:

(1) Adult prisoners:

a. If the Criminal Code implemented on July 1, 2006 applies: Prisoners sentenced to life may apply for parole after serving over 25 years; for first-time offenders, after serving over 1/2 of the sentence; for recidivists, after serving over 2/3 of the sentence; but the prisoner must have served at least 6 months in prison.

If the Criminal Code implemented on November 28, 1997 applies: Regular prisoners sentenced to life may apply for parole after serving 15 years; for recidivists sentenced to life, after serving at least 20 years; for prisoners who are sentenced to a term of imprisonment, after serving at least 1/2 of the sentence; for recidivists sentenced to a term of imprisonment, after serving at least 2/3 of the sentence.

If the Criminal Code implemented on January 30, 1994 applies: Regular prisoners sentenced to life may apply for parole after serving at least 10 years; for prisoners who are sentenced to a term of imprisonment, after serving at least 1/2 of the sentence.

b. The prisoner's edification and education score, work score and conduct score should all be 3 points or higher in the past 3 months. The work score needs not be considered if the prisoner was unable to work.

c. The prisoner shows evidence of repentance.

(2) Juvenile prisoners:

a. After serving over 7 years in a life sentence or after serving over 1/3 of a sentence to a term of imprisonment; the juvenile must have served over 6 months in prison.

b. Having advanced to Level 2 or better (applicable to students of juvenile correction schools sentenced to a term of imprisonment).

- c. Counseling (edification) score is 4 points or higher, conduct score is 3 points or higher and learning (work) score is 2 points or higher in the past 3 months. The learning (work) score needs not be considered if the juvenile was unable to work.
 - d. The juvenile shows evidence of repentance.
3. The number of days in detention before receiving a definitive sentence can be used to offset the length of sentence (one day to one day). For prisoners sentenced to life, days in detention may not be used to offset the length of sentence. However the days in detention that exceed one year will be counted toward the execution of sentence.
4. For prisoners who meet the conditions described above, the prison may file the inmate's parole application to the parole review panel for a decision and then report the decision to the Agency of Corrections for final approval. However prisoners who have not served their sentence for six months or longer, recidivists whose offense carries a long sentence, and sex offenders who, after being counseled or treated, are founded as having not remarkably reduced the danger of repeating the offense are not eligible for parole.

問 15-3、假釋通過後，會通知受刑人或其親屬嗎？

Q15-3: If parole is granted, will the prisoner or prisoner's relatives be notified?

答：

- 一、假釋之審查係綜合參酌受刑人犯行情節、在監行狀、犯罪紀錄、教化矯正處遇成效、更生計畫及其他相關事項，本諸公平、公正原則，依法由教化科主動辦理，無需支付任何費用或聘請律師申請假釋。
- 二、不予許可假釋者，矯正署會附具理由，由執行機關將理由書交由受刑人收受；經假釋許可者並不會通知家屬，除非受刑人行動有礙、自行返家顯有困難，或罹重病、精神疾病，或屬家暴犯，才會通知家屬。
- 三、由於受刑人之陳報假釋時程，因每人刑期、級別、累進處遇分數、犯次、適用新舊法等因素不同而有差別，故確切之陳報日期，所屬教區教誨師依個人資料細算後再行告知。

A:

1. The parole review shall include the review of the prisoner's crime, behavior in prison, criminal records, effectiveness of the edification or correctional treatment, after-care plan, and other related matters. The review is conducted based on fairness and justice, and the parole application will be initiated by prison's Edification and Education Section. The prisoner does not need to pay any fee or hire a lawyer to apply for parole.
2. If parole is denied, the Agency of Corrections will enclose the reasons in the denial letter and send the prisoner the letter through the prison. Families of a prisoner who is granted parole

will not be notified, unless the prisoner has moving difficulty, or has problem returning home on his or her own, or is gravely ill, has psychiatric disorder, or a domestic violence offender.

3. The time to file a parole application differs for each prisoner due to the difference in each prisoner's sentence, level, progressive treatment score, number of offenses, and applicable law. Thus the prisoner's counsel in prison will do the computation based on the prisoner's personal data and inform the prisoner of the definitive date when he or she will become eligible for parole.

問 15-4、受刑人假釋的期間與效力為何？

Q15-4: What are the parole periods and the effectiveness of parole?

答：

一、假釋期間：

依刑法修正有下列三種情形：

- (一)適用 95 年 7 月 1 日施行之刑法：無期徒刑以假釋後 20 年為期，有期徒刑為其出監後所剩的刑期。
- (二)適用 86 年 11 月 28 日施行之刑法：無期徒刑以假釋後 15 年為期，有期徒刑為其出監後所剩的刑期。
- (三)適用 83 年 1 月 30 日施行之刑法：無期徒刑以假釋後 10 年為期，有期徒刑為其出監後所剩的刑期。

二、假釋效力：

假釋出監後，於假釋期間未經假釋撤銷者，其未執行的刑期，以已執行論，即原宣告之刑視同已執行完畢。

A:

1. Parole period:

The parole period varies under different amendments of the Criminal Code:

- (1) If the Criminal Code implemented on July 1, 2006 applies: The parole period is 20 years after being released on parole for prisoners sentenced to life, and it is the remaining portion of sentence after being released on parole for prisoners sentenced to fixed-term imprisonment.
- (2) If the Criminal Code implemented on November 28, 1997 applies: The parole period is 15 years after being released on parole for prisoners sentenced to life, and it is the remaining portion of sentence after being released on parole for prisoners sentenced to fixed-term imprisonment.
- (3) If the Criminal Code implemented on January 30, 1994 applies: The parole period is 10 years after being released on parole for prisoners sentenced to life, and it is the remaining

portion of sentence after being released on parole for prisoners sentenced to fixed-term imprisonment.

2. Effectiveness of parole:

If a parole was not revoked during the parole period, the unexecuted portion of the sentence shall be considered to have been executed. That is, the originally pronounced punishment is considered completely executed.

問 15-5、假釋案件審核情形為何?

Q15-5: How are parole applications reviewed?

答：

- 一、對於假釋案件，係就受刑人之犯行情節（犯罪動機、方法手段、所生損害）、在監行狀（平日言行、輔導紀錄、獎懲紀錄）、犯罪紀錄（歷次裁判、執行刑罰、保安處分、撤銷假釋或緩刑紀錄）、教化矯正處遇成效（累進處遇成績、個別處遇計畫執行情形、參加課程或職訓情形）、更生計畫（出監後有無適當工作、謀生技能、固定住居所）、其他相關事項（家庭支持、對犯罪行為修復情形、犯罪所得繳納情形、被害人意見、受刑人陳述意見）等資料進行綜合研判，始為許可與否之決定。
- 二、為確保國家刑罰執行之妥適與安定性，假釋審核須衡酌刑事政策，考量犯罪趨勢及整體治安之良窳，並考核各執行有關資料，俾符合人民對法正義之期待，故未符合前述考量者，矯正署將不予許可其假釋。法務部已廣納專家、學者及實務工作者之意見，建構「犯行情節」、「犯後表現」（含在監行狀）、「再犯風險」（含前科紀錄）之三大審核面向，對於重大刑案及具連續性、集團性、暴力性、屢犯監規難以教化、前科累累或假釋中再犯罪者，以從嚴審核為原則；對於危害輕微、初犯、過失犯、在監表現優良或有妥善更生計畫者，則從寬審核。

A:

1. A decision to grant a parole or not is made based on an overview of the prisoner's crime (motivation, techniques used in crime, damages caused), behavior in prison (daily words and deeds, counseling record, reward and punishment records), criminal records (judgments received, sentences served, rehabilitative measures received, record on revocation of parole or probation), effectiveness of the edification or correctional treatment (progressive treatment scores, implementation of individual corrective treatment program, courses attended or vocational training received), after-care plan (any suitable job waiting after release, job skills, availability of fixed residence), and other related matters (family support, reparations for crime committed, return of proceeds of crime, opinions of victims, prisoner statement, etc.).
2. To ensure the appropriateness and stability of execution of punishments rendered according to the country's criminal laws, parole review must take into account the criminal policies,

crime trends and public order and security, and assess relevant information and data to meet people's expectation for criminal justice. Therefore, if a parole application does not meet the aforementioned considerations, the Agency of Corrections will not grant the parole. The Ministry of Justice has consulted the opinions of experts, scholars and people working in the field of criminal justice to develop three aspects of review – crime committed, performance after committing the crime (including behavior in prison), and risk of recidivism (including prior criminal records). So parole review will be strict for prisoners who have committed major crimes and the crimes were serial, organized and violent in nature, prisoners who constantly break prison rules and are difficult to edify, or prisoners who have a long criminal record or have committed crimes again while on parole. The review will be more lenient for prisoners who have committed minor crimes, who are first-time offender or negligent offender, who have performed well in prison or have a proper after-care plan in place.

問 15-6、假釋出監人在什麼情況下會被撤銷假釋？殘餘刑期如何適用？

Q15-6: Under what circumstances will parole be revoked? What happens to those parolee's remaining sentence?

答：

一、假釋出監之受保護管束人，有下列情形，執行保護管束檢察署觀護人會依法函請原假釋監獄撤銷假釋：

(一)依刑法第 78 條第 1 項規定，假釋中因故意更犯罪，受有期徒刑以上刑之宣告者，於判決確定後 6 月以內，撤銷其假釋。但假釋期滿逾 3 年者，不在此限。

(二)假釋期間違反保安處分執行法第 74 條之 2 各款情節重大者得撤銷假釋。包括
(1) 保持善良品行，不得與素行不良之人往還；(2) 服從檢察官及執行保護管束者之命令 (3) 不得對被害人、告訴人或告發人尋釁；(4) 對於身體健康、生活情況及工作環境等，每月至少向執行保護管束者報告 1 次；(5) 非經執行保護管束者許可，不得離開受保護管束地；離開在 10 日以上時，應經檢察官核准。

二、假釋經撤銷後，應繼續執行其所餘刑期，說明如下：

(一)適用 95 年 7 月 1 日施行之刑法：假釋經撤銷後，因其假釋在外的日數不算入刑期內，有期徒刑者應繼續執行其所餘刑期，無期徒刑者應執行 25 年（不得再陳報假釋），方能再接續執行他刑。

(二)適用 86 年 11 月 28 日施行之刑法：假釋經撤銷後，因其假釋在外的日數不算入刑期內，有期徒刑者應繼續執行其所餘刑期，無期徒刑者應執行 20 年（不得再陳報假釋），方能再接續執行他刑。

(三)適用 83 年 1 月 30 日施行之刑法：假釋經撤銷後，因其假釋在外的日數不算入刑期內，有期徒刑者應繼續執行其所餘刑期，無期徒刑者應執行 10 年(得陳報假釋)，如符合假釋要件時仍可提報假釋。

三、撤銷假釋受刑人之責任分數，須按行刑累進處遇條例第 19 條所定責任分數之標準，增加責任分數 2 分之 1。

A:

1. When a parolee has any of the following situations, his or her parole officer under the prosecutors office will send a letter to the original prison to request revocation of parole:
 - (1) Pursuant to Paragraph 1, Article 78 of the Criminal Code, if the parolee has committed another offense during the period of parole that carries an imprisonment or a more severe punishment, the parole shall be revoked within 6 months after the verdict is announced. However, this shall not apply to an offense committed 3 years after completing the parole period.
 - (2) If the parolee violates any provision under the subparagraphs of Article 74-2 of the Rehabilitative Disposition Execution Act during the period of parole and the offense is serious, the parole may be revoked. Those provisions include: (a) Maintaining good behaviors and no interactions with people with propensity to crime; (b) Complying with the orders given by the prosecutor and the parole officer; (c) Shall not offend the victim, complainant, or informant; (d) Reporting health and living conditions, and working environment to the parole officer at least once a month; and (e) Unless approved by the parole officer, do not leave the area of protective control. Approval of the prosecutor shall be acquired if the parolee plans to leave the area for more than 10 days.
2. After parole is revoked, the remaining sentence to be served by the prisoner is as follows:
 - (1) If the Criminal Code implemented on July 1, 2006 applies: After the revocation of parole, the prisoner's days on parole will not be counted as time served; prisoners sentenced to fixed-term imprisonment shall continue to serve the remaining sentence, and prisoners sentenced to life shall serve another 25 years (no longer eligible for parole) before the prisoners start to serve other sentences.
 - (2) If the Criminal Code implemented on November 28, 1997 applies: After the revocation of parole, the prisoner's days on parole will not be counted as time served; prisoners sentenced to fixed-term imprisonment shall continue to serve the remaining sentence, and prisoners sentenced to life shall serve another 20 years (no longer eligible for parole) before the prisoners start to serve other sentences.
 - (3) If the Criminal Code implemented on January 30, 1994 applies: After the revocation of parole, the prisoner's days on parole will not be counted as time served; prisoners sentenced to fixed-term imprisonment shall continue to serve the remaining sentence,

and prisoners sentenced to life shall serve another 10 years (eligible for parole). The prisoners can apply for parole again if they meet the parole criteria.

3. The responsibility score of prisoners whose parole is revoked shall be calculated based on the standards set out in Article 19 of the Statute of Progressive Execution of Penalty and then increased by one half.

問 15-7、入監前羈押期間過長，對於陳報假釋及累進處遇有何補救措施？

Q15-7: If a prisoner was held in detention for an excessive long period of time before he or she was sent to prison, what are the remedial measures with regard to such prisoner's parole application and progressive treatment?

答：

- 一、對於入監前曾受羈押的受刑人符合下列條件者經監務會議決議，報請上級機關核定後，可逕編或改列 3 級。

(一)羈押期間符合下列規定且以執行指揮書記載為準：

1. 宣告刑在 3 年以上 30 年未滿者，其羈押期間必須超過其刑期的 6 分之 1。
2. 宣告刑在 30 年以上及無期徒刑者，其羈押期間必須在 5 年以上。

(二)富有責任觀念，且適於共同生活的標準：羈押期間的性行考核在乙等以上的月數，初犯及再犯者必須占羈押總月數 2 分之 1 以上，累犯則必須占 3 分之 2 以上，且入監後無違反紀律之行為，並嚴守秩序、行狀善良者。(惟 109 年 7 月 15 日新法施行後，已無性行考核表之部分，僅就其他具體項目審核)

- 二、依行刑累進處遇條例第 14 條及其施行細則第 10 條規定意旨，「逕編 3 級」乃以尚未編級受刑人為限；惟已編級後之受刑人，由於更刑或經核算刑期後，仍具備「逕編 3 級」要件得「改列 3 級」，適用對象及程序如下：

(一)溯及仍在矯正機關具備上述條件之受刑人(含已進至 3 級以上者)。

(二)受刑人於入監(校)後，倘有違反紀律或與行刑累進處遇條例施行細則第 10 條規定未合時，得經監務(學生處遇審查)會議決議，不予「改列 3 級」。

(三)適用改列 3 級之受刑人，符合前揭條件者，經監務會議決議，報請上級機關核定後即可改列 3 級。

- 三、針對羈押期間亦達一定時間，但未達逕編 3 級或改列 3 級者，機關得依累進處遇與刑期執行間之公平配算原則按其表現，調整成績分數，以彌補羈押期間過長之憾。另收容人在監期間恪守監規，謹守本分，積極參與各項活動者，機關得發給獎狀或增給成績分數，俾增提早進分之機會。

A:

1. Prisoners who were held in detention before arriving at prison and meet the following conditions may be assigned or reclassified to Level 3 after their case is considered by the Prisons Affairs Committee and approved by the superior authority:

- (1) The detention period meets the following criteria and is as stated in the execution instruction:
 - a. For prisoners whose sentence is more than 3 years but less than 30 years in prison, the detention period must exceed 1/6 of the term of imprisonment.
 - b. For prisoners whose sentence is more than 30 years or life in prison, the detention period must exceed 5 years.
 - (2) For prisoners manifesting a strong sense of responsibility and suitability for communal life: The number of months with grade B or better for behavior review during the detention period must account for at least 1/2 of the total months in detention for first-time offenders and repeat offenders, at least 2/3 of the total months in detention for recidivists, and the prisoners did not break any rule, observe order, and behave well after arriving at the prison (under the new law implemented on July 15, 2020, the part on behavior review is deleted that review is carried out on other specific items).
2. By the intent of Article 14 of the Statute of Progressive Execution of Penalty and Article 10 of its Enforcement Rules, “assigned to Level 3” is limited to prisoners who have not been classified. For classified prisoners who meet the criteria for “assigned to Level 3” after change of sentence or tabulation of prison term, the eligibility and procedure for “reclassified to Level 3” are as follows
- (1) The provisions apply retroactively to prisoners who are still held at correctional facilities and meet the aforementioned conditions (including prisoners who have advanced to Level 3 or better).
 - (2) For prisoners who break the rules or do not comply with the provisions of Article 10 of the Enforcement Rules for Statute of Progressive Execution of Penalty after arriving at the prison (school), the Prison Affairs (Correction) Committee may decide not to reclassify the prisoner to Level 3.
 - (3) For prisoners eligible for reclassifying to Level 3 and meeting the aforementioned conditions, the Prison Affairs Committee may make a decision to submit the case to the superior authority for approval and reclassify the prisoner to Level 3 after approval is granted.
3. For prisoners who were held in detention for a period of time but are not eligible for “assigned to Level 3” or “reclassified to Level 3”, the correctional facility may, based on their performance and fair considerations of progressive treatment and sentenced served, adjust their performance score to rectify the fact that they were in detention for an excessive period of time. In addition, if prisoners faithfully obey the prison rules, behave themselves and actively participate in all kinds of activities, the correctional facility may give them a

certificate of merit or increase their performance score so they have the chance to advance to a higher level.

問 15-8、何謂和緩處遇，相關規定為何？

Q15-8: What does “mild measures” mean? What are the rules?

答：

- 一、對於刑期 6 月以上之受刑人，有下列情形者經監督機關核定，得為和緩處遇：
 - (一)患有疾病經醫師證明需長期療養。
 - (二)有客觀事實足認其身心狀況欠缺辨識能力，致不能處理自己事務，或其辨識能力顯著減低。
 - (三)衰老、身心障礙、行動不便或不能自理生活。
 - (四)懷胎期間或生產未滿 2 月。
 - (五)依其他事實認為有必要。
- 二、適用和緩處遇者，其處遇較一般累進處遇寬和
 - (一)教化：以個別教誨及有益其身心之方法行之。
 - (二)作業：依其志趣，並斟酌其身心健康狀況參加輕便作業，每月所得之勞作金並得自由使用。
 - (三)監禁：視其個別情況定之。為維護其身心健康，並得與其他受刑人分別監禁。
 - (四)接見及通信：因患病或於管理教化上之必要，得許其與最近親屬、家屬或其他人接見及發受書信，並得於適當處所辦理接見。
 - (五)給養：罹患疾病者之飲食，得依醫師醫療行為需要換發適當之飲食。
 - (六)編級：適用累進處遇者，依行刑累進處遇條例之規定予以編級，編級後之責任分數，依同條例第 19 條之標準 8 成計算。
- 三、若刑期未滿六個月之受刑人，有第一項情形之一者，可以比照編級以外的規定適用處遇。

A:

1. Prisoners with more than 6 months of sentence and having any of the following situations may be subject to mild measures after the approval of the supervisory agency:
 - (1) The prisoner suffers from a disease and requires long-term care in accordance to a doctor's certificate of diagnosis.
 - (2) There are objective facts showing that the prisoner lacks cognitive skills due to his/her physical or mental conditions and cannot take care of himself/herself; or where the prisoner's cognitive skills have diminished significantly
 - (3) The prisoner suffers from senility, physical or mental disabilities, or mobility impairments, or cannot take care of himself/herself in prison
 - (4) The prisoner is pregnant or has given birth less than two months prior.

- (5) The prison deems it necessary based on other facts.
2. Prisoners eligible for mild measures are subject to more lenient treatment than that under the progressive treatment program.
- (1) Edification: Edification shall be implemented through individual counseling and other methods beneficial to their physical and mental wellbeing.
- (2) Work: Prisoners may be assigned light work based on their interests and their physical and mental health conditions. They may receive monthly labor compensation and use them freely.
- (3) Confinement: Confinement shall be implemented based on the conditions of each individual. To protect their physical and mental health, an inmate may be confined separately from other inmates.
- (4) Visits and correspondence: Where necessary for the treatment of illnesses, management, or edification, the prison may allow the nearest relatives, family members, or others to visit and send and receive correspondence. It may also arrange visits at suitable locations.
- (5) Supply: Food for inmates suffering from diseases may be changed to suitable food based on instructions of the doctor's treatment plan.
- (6) Classification: Prisoners eligible for progressive treatment shall be classified in accordance with the Statute of Progressive Execution of Penalty. The responsibility scores after classification shall be 80% of the standard scores calculated specified in Article 19 of the same Statute.
3. Prisoners with less than 6 months of sentence may be eligible to suitable treatment outside the classification system if they have a situation under the first paragraph.

問 15-9、何謂縮短刑期，相關規定為何？

Q15-9: What does "sentence abridgement" mean? What are the rules?

答：

- 一、縮短刑期係指受刑人在監執行期間行狀良好，依法縮短其應執行之刑期，以促其改悔向善的處遇制度。
- 二、一般監獄受刑人，其累進處遇進到第 3 級以上，每月成績在 10 分以上者，即可縮短刑期。第 3 級每月縮短 2 日、第 2 級每月縮短 4 日、第 1 級每月縮短 6 日。
- 三、外役監受刑人自到監之翌月起，無工作低劣、不守紀律或降級處分之情者，每執行 1 個月即依下列日數縮短刑期。第 4 級或未編級者每月縮短 4 日、第 3 級每月縮短 8 日、第 2 級每月縮短 12 日、第 1 級每月縮短 16 日。
- 四、殘餘刑期不滿 1 個月者，不得辦理縮短刑期。
- 五、受刑人已縮短之日數即不必執行，依行刑累進處遇條例之規定已縮短的刑期不得回復，但外役監獄受刑人如工作成績低劣，不守紀律或受降級處分時，按其情節輕重，

仍留外役監獄者，當月不縮短刑期，被解送其他監獄者，其前已縮短的日數，應全部回復。另假釋經撤銷者，其在外役監獄執行時所縮短的刑期，亦應回復，故仍要執行其已回復之日數。

六、累進處遇以縮短後的刑期計算 因縮刑變更類別者，其累進處遇責任分數重新核算，已抵銷之責任分數，按比率予以換算。

A:

1. Abridgement of term is a correctional treatment system applied to prisoners who behave well during incarceration that the prisoner's prison term will be shortened according to law to urge them to repent and be a solid citizen in the society.
2. General prisoners who are advanced to Level 3 under progressive treatment and receive a monthly performance score of 10 points or higher can have their prison term shortened; their prison term is shortened 2 days each month (of service) for Level 3, 4 days each month for Level 2 and 6 days each month for Level 1.
3. Open-prison prisoners are eligible for abridged prison term for each month service as follows starting from the next month following their arrival at prison, provided they are free of the situations of bad working attitude, violating disciplinary rules or receiving demotion penalty in progressive treatment: prison term is shortened 4 days each month (of service) for Level 4 or unclassified prisoners, 8 days each month for Level 3, 12 days each month for Level 2 and 16 days each month for Level 1.
4. Prisoners whose remaining sentence is less than one month are not eligible for abridged prison term.
5. Prisoners granted abridged prison term do not need to serve the days shortened, and days shortened in accordance with the Statute of Progressive Execution of Penalty may not be retracted. However, if an open-prison prisoner performs poorly at work, disobeys the rules or receives demotion penalty but remains in open prison given the severity of the situation, the prisoner will not be entitled to the sentence abridgement privilege for the month. If the prisoner is sent to another prison from the open prison, the days shortened previously will all be retracted. For prisoners whose parole is revoked, the days shortened earned by the prisoners while they were at an open prison will also be retracted. That means they still need to serve the term retracted.
6. For prisoners with abridged prison term that changes their classification, their performance score under the progressive treatment system will be recalculated, and the responsibility scores already written off will be converted on a pro rata basis.

問 15-10、如何聲請辦理易科罰金？有任何規定嗎？

Q15-10: How to request commuting a punishment to a fine? Are there any rules?

答：

一、符合刑法第 41 條規定者，可向執行之地方方法院檢察署提出易科罰金之聲請，條件如下：

(一)犯最重本刑為 5 年以下有期徒刑以下刑之罪，而受 6 月以下有期徒刑或拘役之宣告者，得以新臺幣 1000 元、2000 元或 3000 元折算 1 日（依判決書所載為準），易科罰金。但如有難收矯正之效或難以維持法秩序之情形，檢察官得不准許。

(二)前項規定於數罪併罰之數罪均得易科罰金，其應執行之刑逾 6 月者，亦適用之。

二、得易科罰金者，請向檢察署繳納罰金，如未能一次繳清罰金，亦可向檢察署聲請分期繳納。

三、已服刑之收容人欲易科罰金，可由親屬攜帶身分證明文件親赴執行之檢察署聲請；如收容人保管金充足，亦可提出書狀向檢察署提出易科罰金聲請，以扣除保管金之方式繳納罰金，以期早日返家。

四、如有易科罰金相關問題，得以電話洽詢執行之地方方法院檢察署，以獲得合宜之解答。

A:

1. Defendants or inmates who meet the conditions set out in Article 41 of the Criminal Code can petition to the local prosecutors office that executes the sentence for commuting a prison term to fines. The conditions are as follows:

(1) In an offense that carries a maximum principal punishment of not more than five years' imprisonment, if the offender is sentenced to imprisonment for not more than six months or short-term imprisonment, the punishment may be commuted to a fine at a daily rate of NT\$1000, NT\$2000 or NT\$3000 (depending on the order given in the court verdict). However, the prosecutor may deny the request if it is deemed that the commutation is manifestly of little corrective effect, or that law and order cannot be maintained by commuting the prison term to fines.

(2) The preceding provision also applies if all offenses in a combined punishment are eligible for commutation to fines even if the combined punishment is more than 6 months of prison.

2. Defendants or inmates whose punishment may be commuted to fines should pay the fines at the prosecutors office, and may apply for installment payment.

3. For inmates who are serving a sentence in prison and like to commute punishment to fines, their relatives can bring their ID card to the prosecutors office to make the request. If the inmate has sufficient money in safekeeping account, he or she can also submit a written petition to the prosecutors office to request commutation to fines and pay the fines with the money in the safekeeping account.

4. Any question about commutation to fines may be inquired by calling the local prosecutors office.

問 15-11、學生編等條件為何？免除或停止執行之規定為何？

Q15-11: What are the criteria for the classification of reform school students? What are the rules for remission or suspension of reformatory education?

答：

- 一、凡執行感化教育期間，機關都會給予編等。其累進處遇分為4等，第4等、第3等、第2等、第1等，由機關考核其行狀，自第4等依序進等。
- 二、免除執行感化教育部分：
 - (一)依刑法宣告之感化教育受處分人，執行逾6個月，已進入第1等，而其第1等成績最近3個月內，每月得分在42分以上，執行機關認為無繼續執行之必要者，得檢具事證，報經上級主管機關核准後，報請檢察官聲請法院免予繼續執行。
 - (二)依少年事件處理法諭知之感化教育受處分人，執行逾6個月，已進入第1等，而其第1等成績最近3個月內，每月得分在42分以上，執行機關認為無繼續執行之必要者，得檢具事證，聲請少年法院或地方法院少年法庭裁定免除執行。
- 三、停止執行感化教育部分：
 - (一)依刑法宣告之感化教育受處分人，執行逾6個月，已進入第2等，而其第2等成績最近3個月內，每月得分在42分以上，執行機關認為無繼續執行之必要者，得檢具事證，報經上級主管機關核准後，報請檢察官聲請法院裁定停止其處分之執行，停止期間並付保護管束。
 - (二)依少年事件處理法諭知之感化教育受處分人，執行逾6個月，已進入第2等，而其第2等成績最近3個月內，每月得分在42分以上，執行機關認為無繼續執行之必要者，得檢具事證，聲請原為感化教育處分之少年法院或地方法院少年法庭裁定停止執行，停止期間應裁定交付保護管束。
- 四、少年在保護管束期間違反應遵守之事項，情節重大，少年保護官得聲請少年法院裁定撤銷保護管束，將所餘之執行期間令入感化處所施以感化教育，其所餘之期間不滿6月者，應執行至6月。
- 五、依少年事件處理法第54條第1項規定，保護處分之執行至多執行至滿21歲止。

A:

1. Correctional facilities will classify juveniles receiving reformatory education into four levels (Level 4, Level 3, Level 2 and Level 1) for progressive treatment purpose and review their behaviors as basis for advancing them to the next level (from Level 4 up).
2. Remitting the execution of reformatory education:

- (1) For juveniles who are subjected to reformatory education according to the Criminal Code, the correctional facility may submit evidences to the prosecutor and ask the prosecutor to request the court for remitting the execution of reformatory education, provided the juvenile has been under reformatory education for more than 6 months, classified as Level 1, and the juvenile's score under Level 1 status has been 42 points or higher every month in the past 3 months, and that the correctional facility believes the continuing execution of court order is not necessary.
 - (2) For juveniles who are subjected to reformatory education according to the Juvenile Justice Act, the correctional facility may submit evidences to the juvenile court or the juvenile bench of local district court for remitting the execution of reformatory education, provided the juvenile has been under reformatory education for more than 6 months, classified as Level 1, and the juvenile's score under Level 1 status has been 42 points or higher every month in the past 3 months, and that the correctional facility believes the continuing execution of court ruling is not necessary.
3. Suspension of reformatory education:
- (1) For juveniles who are subjected to reformatory education according to the Criminal Code, the correctional facility may submit evidences to the prosecutor and ask the prosecutor to request the court for suspension of reformatory education after the facility's superior authority has given approval, provided the juvenile has been under reformatory education for more than 6 months, classified as Level 2, and the juvenile's score under Level 2 status has been 42 points or higher every month in the past 3 months, and that the correctional facility believes the continuing execution of court ruling is not necessary. The juvenile will be placed under probation during the suspension period.
 - (2) For juveniles who are subjected to reformatory education according to the Juvenile Justice Act, the correctional facility may submit evidences to the juvenile court or the juvenile bench of local district court that made the ruling for suspension of reformatory education, provided the juvenile has been under reformatory education for more than 6 months, classified as Level 2, and the juvenile's score under Level 2 status has been 42 points or higher every month in the past 3 months, and that the correctional facility believes the continuing execution of court ruling is not necessary. The juvenile will be placed under probation during the suspension period.
4. If the juvenile violates rules during the probation period and the violation is of serious nature, the juvenile probation officer may petition to the juvenile court for a ruling of revoking the protective measures and sending the juvenile to a correctional institution for the rest of the execution period. Where the time remaining is less than 6 months, the corrective education shall be executed for 6 months.

5. Pursuant to Paragraph 1, Article 54 of the Juvenile Justice Act, protective measures may only be executed until a juvenile reaches the age of 21.

問 15-12、強制工作之免除、停止執行規定為何？是否會被撤銷？

Q15-2: What are the rules for remission or suspension of compulsory labor? Can the remission or suspension be revoked?

答：

- 一、執行目的：刑事法採刑罰與保安處分雙軌之立法體制，本於特別預防之目的，針對具社會危險性之行為人所具備之危險性格，除處以刑罰外，另施以各種保安處分，以期改善、矯治行為人之偏差性格；保安處分之強制工作，旨在對有犯罪習慣或以犯罪為常業或因遊蕩或怠惰成習而犯罪者，令入勞動場所，以強制從事勞動方式，培養其勤勞習慣、正確工作觀念，習得一技之長，於其日後重返社會時，能自立更生，期以達成刑法教化、矯治之目的。
- 二、執行方式：經法院裁判時併同宣告，由檢察官指揮矯正機關執行。刑前強制工作，係於宣告刑執行前優先執行強制工作；刑後強制工作，係於宣告刑執行完畢（含假釋期滿）後始執行強制工作。
- 三、執行期間：經法院裁判時併同宣告，最長期間為 3 年。執行期間屆滿前，認為有延長之必要者，法院得許可延長之，其延長之期間不得逾 1 年 6 月，並以 1 次為限。
- 四、執行機關：法務部矯正署泰源技能訓練所、法務部矯正署高雄女子監獄附設技能訓練所等 2 處。
- 五、辦理程序：執行機關認無繼續執行之必要者，報請法務部核准後，得檢具事證，依據刑事訴訟法第 481 條第 1 項規定報請檢察官，向最後事實裁判法院聲請免予繼續執行，或停止繼續執行並交付保護管束。
- 六、停止執行強制工作之撤銷：
 - (一)強制工作經法院裁定免予執行者，無撤銷之問題。
 - (二)強制工作經法院裁定停止執行，停止期間並付保護管束，受處分人於停止執行期間，如違反保護管束規則情節重大者，法院得依檢察官之聲請，為撤銷停止執行之裁定。
- 七、執行時效：保安處分自應執行之日起逾 3 年未開始或繼續執行者，非經法院認為原宣告保安處分之原因仍繼續存在時，不得許可執行；逾 7 年未開始或繼續執行者，不得執行。

A:

1. Purpose of compulsory labor: Taiwan's criminal law adopts a dual track approach that emphasizes both punishment and rehabilitation. For the purpose of prevention, all kinds of rehabilitative dispositions in addition to punishment may be imposed on people who may be dangerous to the society to address their dangerous personalities. It is hoped that the

rehabilitation dispositions may improve or rectify the deviant personalities of those people. Compulsory labor as a rehabilitative disposition aims to target habitual criminals or people commits an offense because of the habit of wandering around or idling and laziness. Those people are ordered to be committed to a labor establishment to perform compulsory labor. It is hoped that through work they can develop the habit of working hard and correct work concept, and acquire a skill so that they may become self-reliant when they return to the society. It will also achieve the edification and correction purposes of criminal law.

2. Execution process: Compulsory labor will be pronounced at the time the court renders a judgment and the correctional facility will enforce it under the command of the prosecutor. Pre-sentence execution compulsory labor means compulsory labor will be executed before the pronounced punishment is executed; post-sentence execution compulsory labor means compulsory labor commences after the inmate completes the service of the pronounced punishment (including the expiration of parole period).
3. Execution period: Compulsory labor that is pronounced at the time the court renders a judgment shall last no more than 3 years. The court may allow an extension of compulsory labor before the period of execution expires if necessary, but the extension shall be limited to once and the period of extension shall not exceed one and a half years.
4. Enforcement facilities: Taiyuan Skill Training Institute and Skill Training Institute affiliated with Kaohsiung Women's Prison, both are under the Agency of Corrections.
5. Procedure: If the correctional facility does not think the continuing execution of compulsory labor for an inmate is necessary, it may report to the Ministry of Justice for approval, and then submit evidences to the prosecutor in accordance with Paragraph 1, Article 481 of the Code of Criminal Procedure for the prosecutor to request the court that rendered the final ruling for remission or suspension of continuing execution and placement under protective measures.
6. Revocation of suspension of compulsory labor:
 - (1) Revocation is not an issue if the court has ruled the remission of compulsory labor.
 - (2) If the court rules suspension of compulsory labor and placement under protective measures, but the inmate violates the rules for protective measures and the violation is of serious nature during the suspension of execution, the court may, by the request of the prosecutor, revoke the ruling of suspension of compulsory labor.
7. Time limitation: If the execution of the rehabilitative measures has not begun or if the execution has not been continued for 3 years from the day that they shall have been executed, the execution shall not be permitted unless the court believes that the cause for the announced rehabilitative measures has continued to exist. The execution will not be carried out if it has not been begun or continued for 7 years.