

J. Y. Interpretation No.121 (May 10, 1967) *

ISSUE: What is the conversion rate for the commutation from punishment of imprisonment to fines or penalties of labor?

RELEVANT LAWS:

Article 41 and Article 42, Paragraph 2 of Criminal Code (刑法第四十一條及第四十二條第二項) .

KEYWORDS:

commutation of imprisonment to penalties (易科罰金), commutation to labors (易服勞役), daily conversion rate (折算一日金額) .**

HOLDING: Article 41 of the Criminal Code provides for the commutation of imprisonment to penalties, and Article 42, Paragraph 2, of the same Code provides for the commutation to labor. Their daily conversion rate, if increased twofold by the Act Governing Increasing Penalties, Fines, Judgment Fees, Execution Fees, and Notary Fees during the Period for the Suppression of the Communist Rebellion, shall be three, six, or nine

解釋文：刑法第四十一條之易科罰金，第四十二條第二項之易服勞役，其折算一日之原定金額，如依戡亂時期罰金罰鍰裁判費執行費公證費提高標準條例提高二倍，應為以三元、六元或九元折算一日。

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dollars in exchange for one day of the sentence or labor.

REASONING: Article 41 of the Criminal Code provides for commutation of imprisonment to penalties, and Article 42, Paragraph 2, of the Code provides for commutation to labor. The provisions of the daily conversion rate prescribing one dollar minimum and three dollars maximum means paying one, two, or three dollars in exchange for one day of the sentence. This can be deduced from Article 33, Subparagraph 5, of the Code where the penalty is set at one dollar or above, and Article 72, where as a result of the augmentation or mitigation of punishment, a penalty figure below one dollar will be rounded off and not counted. In accordance with Article 2 and Article 4 of the Act Governing Increasing Penalties, Fines, Judgment Fees, Execution Fees, and Notary Fees during the Period for the Suppression of the Communist Rebellion, the sentencing court may raise the penalty twofold, viz., increase the penalty to three, six, or nine dollars. When doing so, the court must choose one from the above-

解釋理由書：刑法第四十一條之易科罰金，第四十二條第二項之易服勞役，其折算一日之原定金額，所稱一元以上三元以下，係謂以一元、二元或三元折算一日。此證諸同法第三十三條第五款罰金為一元以上，第七十二條因刑之加重、減輕，而有不滿一元之額數者不算，等規定自明。主管院經依戡亂時期罰金罰鍰裁判費執行費公證費提高標準條例第二條與第四條規定核定將其提高二倍後，即應為三元、六元或九元，審判上須就上項數額擇一折算，不得就三元以上，九元以下範圍內，諭知非原定金額提高二倍之數額。至刑法第四十二條第三項比例折算之規定，係就例外情形而設，未容混淆，併予指明。

mentioned penalty figures. It may not pick a figure from within the range of three to nine dollars that is not an exact twofold increment of the original penalty amount. As for the pro rata conversion rate prescribed in Article 42, Paragraph 3, of the Criminal Code, it is created for certain exceptional circumstances and should not be confused with the regular rule. We hereby point it out as well.