

恩赦法施行規則

Enforcement Regulation of the Pardons Act

(昭和二十二年十月一日司法省令第七十八号)

(Ministry of Justice Order No. 78 of October 1, 1947)

第一条 恩赦法（昭和二十二年法律第二十号）第十二条の規定による中央更生保護審査会の申出は、刑事施設（少年法（昭和二十三年法律第百六十八号）第五十六条第三項の規定により少年院において刑を執行する場合における当該少年院を含む。以下第一条の二、第六条、第八条及び第十一条第三項において同じ。）若しくは保護観察所の長又は検察官の上申があつた者に対してこれを行うものとする。

Article 1 Pursuant to the provisions of Article 12 of the Pardons Act (Act No. 20 of 1947) a recommendation by the National Offenders Rehabilitation Commission is to be made with respect to those persons for whom there has been a petition by the warden of the penal institution (including the juvenile training school concerned when the sentence is served in a juvenile training school under the provision of paragraph (3) of Article 56 of the Juvenile Act (Act No. 168 of 1948), hereinafter the same shall apply to Article 1-2, Article 6, Article 8 and paragraph (3) of Article 11), the director of the probation office or by the public prosecutor.

第一条の二 次に掲げる者は、職権で、中央更生保護審査会に特赦、特定の者に対する減刑又は刑の執行の免除の上申をすることができる。

Article 1-2 (1) The persons listed below may, ex officio, petition to the National Offenders Rehabilitation Commission for a special pardon, commutation of a sentence with respect to a specific person or remission of execution of a sentence:

一 刑事施設に収容され、又は労役場若しくは監置場に留置されている者については、その刑事施設の長

(i) the warden of the penal institution concerned with regard to persons committed to a penal institution or detained in a workhouse or a court-ordered confinement house;

二 保護観察に付されている者については、その保護観察をつかさどる保護観察所の長

(ii) the director of the probation office who takes charge of the person's probation with regard to persons under probation ;

三 その他の者については、有罪の言渡しをした裁判所に対応する検察庁の検察官

(iii) a public prosecutor of the public prosecutors office corresponding to the court which rendered the judgment of conviction with regard to other persons.

2 前項各号に掲げる刑事施設若しくは保護観察所の長又は検察官は、本人から特赦、

減刑又は刑の執行の免除の出願があったときは、意見を付して中央更生保護審査会にその上申をしなければならない。

- (2) The warden of the penal institution, director of the probation office or public prosecutor given in each of the items of the preceding paragraph must, when the person in question has filed an application for special pardon, commutation of sentence or remission of execution of sentence, submit a petition in that regard to the National Offenders Rehabilitation Commission, attaching their opinion thereto.

第二条 特赦、減刑又は刑の執行の免除の上申書には、次の書類を添付しなければならない。

Article 2 (1) The documents listed below must be attached to the petition for special pardon, commutation of sentence or remission of execution of sentence:

一 判決の謄本又は抄本

(i) a certified transcript or extract of the judgment;

二 刑期計算書

(ii) a calculation of the term of imprisonment;

三 犯罪の情状、本人の性行、受刑中の行状、将来の生計その他参考となるべき事項に関する調査書類

(iii) the investigation report concerning the circumstances of the crime, character and conducts of the person in question, the behavior while serving the sentence, future livelihood and other matters for reference.

- 2 本人の出願により上申をする場合には、前項の書類のほか、その願書を添付しなければならない。

- (2) In the case of a petition made by virtue of the application of the person in question, their written application must be attached, in addition to the documents given in the preceding paragraph.

- 3 判決原本の滅失又は破損によって判決の謄本又は抄本を添付することができないときは、検察官が自己の調査に基づき作成した書面で判決の主文、罪となるべき事実及びこれに対する法令の適用並びに判決原本が滅失し又は破損したこと及びその理由を示すものをもって、これに代えることができる。

- (3) In cases where a certified transcript or extract of the judgment cannot be attached because the original of the judgment has been destroyed or damaged, a document prepared by a public prosecutor on the basis of their own investigation, showing the main text of the judgment, the facts constituting the crime, the application of laws and regulations thereto, and the fact that the original of the judgment has been destroyed or damaged as well as causes thereof, may serve as a substitute.

第三条 次に掲げる者は、職権で、中央更生保護審査会に復権の上申をすることができる。

Article 3 (1) The persons given below may, ex officio, petition the National Offenders Rehabilitation Commission requesting the restoration of rights:

一 保護観察に付されたことのある者については、最後にその保護観察をつかさどった保護観察所の長

(i) the director of the probation office who was last in charge of the person's probation supervision with regard to persons who have ever been under probation supervision;

二 その他の者については、最後に有罪の言渡しをした裁判所に対応する検察庁の検察官

(ii) a public prosecutor of the public prosecutors office corresponding to the last courts which rendered the judgment of conviction with regard to other persons.

2 前項各号に掲げる保護観察所の長又は検察官は、本人から復権の出願があったときは、意見を付して中央更生保護審査会にその上申をしなければならない。

(2) the director of the probation office or the public prosecutor given in each of the above items of the preceding paragraph must, when the person in question has filed an application for restoration of rights, submit a petition to the National Offenders Rehabilitation Commission, attaching their opinion thereto.

第四条 復権の上申書には、次の書類を添付しなければならない。

Article 4 (1) The documents given below must be attached to the petition for restoration of rights:

一 判決の謄本又は抄本

(i) a certified transcript or extract of the judgment;

二 刑の執行を終わり又は執行の免除のあったことを証する書類

(ii) documents showing that the execution of sentence has been completed or that there has been a remission of execution of sentence;

三 刑の免除の言渡しのあった後又は刑の執行を終わり若しくは執行の免除のあった後における本人の行状、現在及び将来の生計その他参考となるべき事項に関する調査書類

(iii) an examination report concerning the behavior of the person in question, their present and future livelihood and other matters for reference subsequent to the rendition of a judgment remitting the sentence, or to completion of execution of the sentence or remission of execution of the sentence.

2 第二条第二項の規定は、前項の場合にこれを準用する。

(2) The provisions of paragraph (2) of Article 2 apply mutatis mutandis to the case set forth in the preceding paragraph.

3 第二条第三項の規定は、第一項第一号の書類についてこれを準用する。

(3) The provisions of paragraph (3) of Article 2 shall apply mutatis mutandis to the document set forth in item (i) of paragraph (1).

第五条 恩赦法第十条第二項による復権の上申書には、回復すべき資格の種類を明記しなければならない。

Article 5 The petition for restoration of rights prescribed in paragraph (2) of Article 10 of the Pardons Act clearly must state the type of legal capacity to be restored.

第六条 特赦、減刑又は刑の執行の免除の出願は、刑の言渡し後次の期間を経過した後でなければ、これを行うことができない。ただし、中央更生保護審査会は、本人の願いにより、期間の短縮を許可することができる。

Article 6 (1) An application for special pardon, commutation of sentence or remission of execution of sentence may not be filed unless the periods given below have elapsed after a sentence has been rendered; provided, however, that the National Offenders Rehabilitation Commission may, upon the application of the person in question, grant permission for reduction of such periods:

一 拘留又は科料については、六箇月

(i) six months for penal detention or petty fines;

二 罰金については、一年

(ii) one year for fines;

三 有期の懲役又は禁錮については、その刑期の三分の一に相当する期間。（短期と長期とを定めて言い渡した刑については、その刑の短期の三分の一に相当する期間。）ただし、その期間が一年に満たないときは、一年とする。

(iii) with respect to imprisonment with or without work for a definite term, the period corresponding to one-third of the term (with regard to sentences for which maximum and minimum terms have been specified, the period corresponding to one-third of the minimum term of the sentence); provided, however, that in cases where such period is less than one year, it is one year;

四 無期の懲役又は禁錮については、十年

(iv) ten years for life imprisonment with or without work.

2 拘禁されない日数は、刑の執行を終わり又は刑の執行の免除を受けた後の日数及び仮釈放中又は刑の執行停止中の日数を除くほか、前項第三号及び第四号の期間にこれを算入しない。

(2) The number of days for which there has been no detention is not included in the periods set forth under items (iii) and (iv) of the preceding paragraph, except for the number of days subsequent to the completion of execution of the sentence or to the granting of remission of execution of the sentence, and the number of days while under parole or stay of execution of sentence.

3 前項の規定は、刑の執行を猶予されている場合には、これを適用しない。

(3) The provisions of the preceding paragraph do not apply to cases where suspension of the execution of the sentence has been granted.

4 第一項ただし書の願いをするには、願書をその願いに係る特赦、減刑又は刑の執行

の免除について上申をすることができる刑事施設若しくは保護観察所の長又は検察官に提出しなければならない。

(4) In order to file the application under the proviso to paragraph (1), the written application must be filed with the warden of the penal institution, the director of the probation office or a public prosecutor authorized to submit the petition of special pardon, commutation of sentence or remission of execution of sentence pertaining to the application.

5 第一条の二第二項の規定は、第一項ただし書の願いがあった場合にこれを準用する。

(5) The provisions of paragraph (2) of Article 1-2 apply mutatis mutandis to cases where the application under the proviso to paragraph (1) was made.

第七条 復権の出願は、刑の執行を終わり又は執行の免除のあった後でなければ、これを行うことができない。

Article 7 An application for restoration of rights may not be filed unless execution of the sentence has been completed or remission of execution of the sentence has been granted.

第八条 刑事施設若しくは保護観察所の長又は検察官が本人の出願によりした特赦、減刑、刑の執行の免除又は復権の上申が理由のないときは、その出願の日から一年を経過した後でなければ、更に出願を行うことができない。

Article 8 If the petition for special pardon, commutation of sentence, remission of execution of sentence or restoration of rights, which has been submitted by the warden of the penal institution, the director of the probation office or the public prosecutor upon the application of the person in question is without justification, an application may not be re-filed unless one year has elapsed from the date of filing such application.

第九条 特赦、減刑、刑の執行の免除又は復権の願書には、次の事項を記載し、かつ、戸籍の謄本又は抄本（法人であるときは登記事項証明書）を添付しなければならない。

Article 9 (1) The written application for special pardon, commutation of sentence, remission of execution of sentence or restoration of rights must contain the particulars given below, and a certified transcript or extract of the family register (in the case of a juridical person, a certificate of registered information) must be attached thereto:

一 出願者の氏名、出生年月日、職業、本籍及び住居（法人であるときはその名称、主たる事務所の所在地及び代表者の氏名）

(i) the applicant's full name, date of birth, occupation, registered domicile and residence (in the case of a juridical person, the corporate name, the address of the principal office and the full name of the representative);

二 有罪の言渡しをした裁判所及び年月日

(ii) the court which rendered the judgment of conviction, and the date thereof;

三 罪名、犯数、刑名及び刑期又は金額

(iii) the type of crime, the number of sentences, the type of sentence, and the term of sentence or the amount thereof;

四 刑執行の状況

(iv) the state of execution of the sentence;

五 上申を求める恩赦の種類

(v) the type of pardon for which the petition is being submitted;

六 出願の理由

(vi) reasons for the application.

2 前項の規定は、第六条第一項ただし書の許可を受ける場合にこれを準用する。

(2) The provisions of the preceding paragraph apply mutatis mutandis in cases of the permission set forth in the proviso to paragraph (1) of Article 6.

第十条 中央更生保護審査会は、特赦、減刑、刑の執行の免除又は復権の上申が理由のないときは、上申をした者にその旨を通知しなければならない。

Article 10 (1) When the petition for special pardon, commutation of sentence, remission of execution of sentence or restoration of rights is found to be without justification, the National Offenders Rehabilitation Commission must issue notice to that effect to the person who submitted the petition.

2 前項の通知を受けた者は、出願者にその旨を通知しなければならない。

(2) The person who receives the notice set forth in the preceding paragraph must notify the applicant to that effect.

第十一条 特赦、特定の者に対する減刑、刑の執行の免除又は特定の者に対する復権があったときは、法務大臣は、中央更生保護審査会をして、有罪の言渡しをした裁判所に対応する検察庁の検察官に特赦状、減刑状、刑の執行の免除状又は復権状（以下「恩赦状」という。）を送付させる。

Article 11 (1) When a special pardon, commutation of a sentence with respect to a specific person, remission of execution of a sentence or restoration of rights with respect to a specific person has been granted, the Minister of Justice has the National Offenders Rehabilitation Commission send the certificates of special pardon, of commutation of sentence, of remission of execution of sentence, or of restoration of rights (hereinafter referred to as "the certificate of pardon"), to a public prosecutor of the public prosecutors office corresponding to the court which rendered the judgment of conviction.

2 恩赦状の送付を受けた検察官は、自ら上申をしたものであるときは、直ちにこれを本人に交付し、その他の場合においては、速やかにこれを上申をした者に送付し、上申をした者は、直ちにこれを本人に交付しなければならない。

(2) The public prosecutor to whom a certificate of pardon has been sent must, in cases where it concerns a person whose pardon the prosecutor themselves petitioned for, deliver it immediately to the person in question, and in other

cases, promptly send it to the person who submitted the petition; and the person who petition shall in turn deliver it immediately to the person in question.

3 上申をした者は、仮釈放中の者に恩赦状を交付したときは、その旨を刑事施設の長に通知しなければならない。

(3) The person who submitted the petition must, when that person has delivered the certificate of pardon to a person under parole, notify the warden of the penal institution concerned to that effect.

4 第二項に規定する恩赦状の交付及び前項の通知は、これを本人の住居のある地を管轄する保護観察所の長、本人の住居のある地を管轄する裁判所に対応する検察庁の検察官又は本人が収容されている刑事施設（本人が労役場又は監置場に留置されている場合における当該刑事施設を含む。）若しくは少年院の長に嘱託することができる。

(4) The provision of delivering the certificate of pardon prescribed in paragraph (2) and of issuing the notice set forth in the preceding paragraph may be commissioned to the director of the probation office who has jurisdiction over the area where the residence of the person in question is located, or to a public prosecutor of the public prosecutors office corresponding to the court which has jurisdiction over the area where the residence of the person in question is located, or to the warden of the penal institution (including penal institutions where the person in question is housed in a workhouse or a court-ordered confinement house) or the superintendent of the juvenile training school in which the person in question is committed.

第十二条 恩赦状を本人に交付した者は、速やかにその旨を法務大臣に報告しなければならない。

Article 12 The person who has delivered the certificate of pardon to the person in question must promptly report as such to the Minister of Justice.

第十三条 恩赦法第十四条の規定により判決の原本に付記をなすべき検察官は、有罪の言渡しをした裁判所に対応する検察庁の検察官とする。

Article 13 The public prosecutor who is to insert added entries in the original of the judgment pursuant to the provisions of Article 14 of the Pardons Act is a public prosecutor of the public prosecutors office corresponding to the court which rendered the judgment of conviction.

第十四条 検察官は、恩赦法第十四条の規定により判決の原本に付記をした場合において、訴訟記録が他の検察庁に在るときは、その検察庁の検察官にその旨を通知しなければならない。

Article 14 (1) When the public prosecutor has inserted added entries in the original of the judgment pursuant to the provisions of Article 14 of the Pardons Act, the public prosecutor must, if the case record remains in another public

prosecutors office, notify a public prosecutor of the office to that effect.

2 前項の通知書は、これを訴訟記録に添付しなければならない。

(2) The written notice set forth in the preceding paragraph must be attached to the case record.

第十五条 有罪の言渡しを受けた者で大赦により赦免を得たものは、有罪の言渡しをした裁判所に対応する検察庁の検察官に申し出て、その旨の証明を受けることができる。政令により復権を得た者も、同様である。

Article 15 Any person against whom a judgment of conviction has been rendered and who has been pardoned by a general pardon, may obtain a certificate thereof by applying to a public prosecutor of the public prosecutors office corresponding to the court which rendered the judgment of conviction. The same also applies to persons who have been granted the restoration of rights through a cabinet order.

附 則 〔抄〕

Supplementary Provisions [Extract]

第十六条 この省令は、公布の日から、これを施行する。

Article 16 This Order of the Ministry of Justice enters into force from the date of its promulgation.

第十七条 朝鮮若しくは台湾又は関東州、南洋群島その他日本国外の地域において有罪の言渡しを受けた者については、当分の間、第一条の二第一項の規定にかかわらず、内地（沖縄県及び樺太を除く。以下同じ。）におけるその者の本籍又は住居のある地を管轄する地方裁判所に対応する検察庁の検察官は、職権で、中央更生保護審査会に特赦、減刑又は刑の執行の免除の上申をすることができる。

Article 17 (1) With regard to those persons against whom a judgment of conviction was rendered in Korea or Taiwan, the Guandong Province, the South Sea Islands, or other areas outside Japan, a public prosecutor of the public prosecutors office corresponding to the district court which has jurisdiction over the area where the registered domicile or place of residence in Japan (excluding Okinawa Prefecture and Sakhalin; the same applies hereinafter) of that person is located, may, for the time being, notwithstanding the provisions of paragraph (1) of Article 1-2, petition the National Offenders Rehabilitation Commission, ex officio, for a special pardon, commutation of sentence, or remission of execution of sentence.

2 前項に規定する検察官は、前項に規定する者から特赦、減刑又は刑の執行の免除の出願があったときは、当分の間、第一条の二第二項の規定にかかわらず、意見を付して中央更生保護審査会にその上申をしなければならない。

(2) When any of the persons prescribed in the preceding paragraph has applied

for a special pardon, commutation of sentence or remission of execution of sentence, the public prosecutor prescribed in the preceding paragraph must, for the time being, notwithstanding the provisions of paragraph (2) of Article 1-2, petition the National Offenders Rehabilitation Commission, attaching their opinion thereto.

第十八条 前条第一項に規定する者については、当分の間、第三条第一項の規定にかかわらず、内地におけるその者の本籍又は住居のある地を管轄する地方裁判所に対応する検察庁の検察官は、職権で、中央更生保護審査会に復権の上申をすることができる。

Article 18 (1) With regard to the persons prescribed in paragraph (1) of the preceding Article, a public prosecutor of the public prosecutors office corresponding to the district court which has jurisdiction over the area where the registered domicile or place of residence in Japan of that person is located, may, for the time being, notwithstanding the provisions of paragraph (1) of Article 3, petition the National Offenders Rehabilitation Commission, ex officio, for the restoration of rights.

2 前項に規定する検察官は、前条第一項に規定する者から復権の出願があったときは、当分の間、第三条第二項の規定にかかわらず、意見を付して中央更生保護審査会にその上申をしなければならない。

(2) When an application has been filed by any of the persons prescribed in paragraph (1) of the preceding Article, the public prosecutor prescribed in the preceding paragraph must, for the time being, notwithstanding the provisions of paragraph (2) of Article 3, petition the National Offenders Rehabilitation Commission, attaching their opinion thereto.

第十九条 大正元年司法省令第三号恩赦令施行規則は、これを廃止する。

Article 19 The Enforcement Regulation of the Order of Pardon, Ministry of Justice Ordinance No. 3 of 1912, is hereby abolished.