

Enforcement Regulation of the Pardons Act

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

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.

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:

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

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:

- (i) a certified transcript or extract of the judgment;
 - (ii) a calculation of the term of imprisonment;
 - (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) 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) 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.

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

- (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;
 - (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) 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.

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

- (i) a certified transcript or extract of the judgment;
 - (ii) documents showing that the execution of sentence has been completed or that there has been a remission of execution of sentence;
 - (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) The provisions of paragraph (2) of Article 2 apply mutatis mutandis to the case set forth in the preceding paragraph.
- (3) The provisions of paragraph (3) of Article 2 shall apply mutatis mutandis to the document set forth in item (i) of paragraph (1).

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.

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:

- (i) six months for penal detention or petty fines;
 - (ii) one year for fines;
 - (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;
 - (iv) ten years for life imprisonment with or without work.
- (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) The provisions of the preceding paragraph do not apply to cases where suspension of the execution of the sentence has been granted.
- (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) 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.

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.

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.

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:

- (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);
 - (ii) the court which rendered the judgment of conviction, and the date thereof;
 - (iii) the type of crime, the number of sentences, the type of sentence, and the term of sentence or the amount thereof;
 - (iv) the state of execution of the sentence;
 - (v) the type of pardon for which the petition is being submitted;
 - (vi) reasons for the application.
- (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.

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

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) 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) 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) 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.

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.

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.

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

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.

Supplementary Provisions [Extract]

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

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) 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.

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) 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.

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