GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE

No. R. 791
17 May 1996

PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995
(Act No. 34 of 1995)

REGULATIONS PRESCRIBING MEASURES CONTEMPLATED IN SECTION 18 (2)

The President has, under section 40 (1) (b) of the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995), made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned thereto and, unless the context indicates otherwise "Head of the Prison" includes the Head Community Corrections or a person designated by the Head of the Prison or the Head Community Corrections;

"prison" means any place for the reception, detention, confinement, training or treatment of persons liable to detention in custody or to detention in or placement under protective custody, which is under the control or supervision of the Department of Correctional Services;

"prisoner" includes unsentenced and sentenced prisoners, probationers and parolees;

"the Act" means the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995); and

"the Committee" means the Committee on Amnesty established by section 16 of the Act.

Informing prisoners

2. (1) The Head of the Prison shall in consultation with the Head Community Corrections inform each prisoner of the provisions of the Act as well as the procedures to follow in order to apply for amnesty.

(2) The Head of the Prison shall complete a certificate with regard to each prisoner who wishes to apply for amnesty wherein the prisoner acknowledges that he or she has been informed of the provisions of the Act and on request has received an application form.

(3) The certificate referred to in subregulation (2) shall be kept on the prisoner's file.

Application forms

3. The Committee shall, when requested thereto, provide all Heads of Prisons with application forms contemplated in section 18 of the Act.

Completion of application forms

4. (1) The Head of the Prison shall provide an application form to any prisoner who wishes to apply for amnesty, in the official language of that prisoner's preference.

(2) The prisoner shall complete the application form and it shall be attested by a Commissioner of Oaths.

(3) The Head of the Prison shall, if so requested by a prisoner, arrange
for a person or organization referred to in subregulation (4) to assist him or her with the completion of the application form and the attestation thereof.

(4) Prisoners may also make use of legal representatives or individual persons and organisations approved by the Committee to assist them.

(5) A request for assistance contemplated in subregulation (3) or (4), shall be in writing and submitted to the Head of the Prison.

(6) The Head of the Prison shall record a request referred to in subregulation (5), inform the relevant person or organisation and arrange for a consultation visit if necessary.

(7) A visit contemplated in subregulation (6) shall be regarded as a visit in terms of regulation 123 of the Regulations made under section 94 of the Correctional Services Act, 1959 (Act No. 8 of 1959).

Recording of applications

5. (1) The Head of the Prison shall record all applications received in a central register.

(2) The Committee shall inform every Head of the Prison of all applications received directly from or on behalf of prisoners, in the custody or care of such Head.

Further information and dispatching of applications

6. (1) The Head of the Prison shall attach a copy of the following documentation, if available, to each application form:

(a) An exposition of the offenses of the prisoner or a legible copy of the relevant part of the prisoner's profile report in which the offenses are set out: Provided that if an offence was committed in prison or while under correctional supervision, it shall be so specified;

(b) the warrants of committed with regard to each offence as well as the warrants of apprehension pertaining to further offenses;

(c) the police report relating to each offence;

(d) record of previous convictions;

(e) full particulars of a co-accused, if it is not mentioned elsewhere;

(f) any information regarding present or previous offenses which indicate whether or not the offenses were committed with a political objective;

(g) any other information that may, from time to time, be requested by the Committee.

(2) If any of the information referred to in subregulation (1) is not readily available, the Committee shall endeavor to obtain it.

(3) The Head of the Prison shall as soon as possible submit each application, except where otherwise indicated and as it is received, by registered post to the Committee at the following address:

The Committee on Amnesty P.O. Box 3162 CAPE TOWN 8000.

(4) The Committee shall acknowledge receipt of each application it receives from the Head of the Prison.

(5) If a prisoner submits his or her application directly to the Committee the Committee shall acknowledge receipt thereof to the prisoner and to the Head of the Prison where such prisoner is incarcerated or supervised.

Hearing

7. (1) The Committee shall identify a suitable venue where a hearing can be held and timeously submit particulars thereof to the Department of Correctional Services.

(2) A hearing referred to in subregulation (1) shall be conducted at a venue where most of the parties involved in the hearing are ordinarily resident.

(3) The Committee shall timeously notify the Head of the Prison, the prisoner, victim or any other person concerned of the date, time and place of the hearing.

(4) The notice referred to in subregulation (3) shall, where persons in the service of or under the control of the Department of Correctional Services are involved, unless otherwise agreed between the Committee and the Department of Correctional Services, be given at least two weeks before the date on which the hearing is to take place.

(5) (a) A sentenced prisoner whose presence is required at a hearing shall be transported to and from the place of hearing by the Department of Correctional Services and such prisoner shall remain in the custody of that Department.

(b) An unsentenced prisoner whose presence is required at a hearing shall be transported to and from the place of hearing by the South African Police Service and such prisoner shall remain in the custody of that Service.
(6) A probationer and parolee shall provide for his or her own transport.

(7) The Department of Correctional Services shall determine what security measures are to be taken with regard to each prisoner and may issue orders accordingly.

(8) If members of the public attend meetings of the committee at prison premises or at Community Corrections' Offices, such persons shall be subject to the provisions of the Correctional Services Act, 1959 (Act No. 8 of 1959).

Result of applications

8. (1) The Committee shall inform the Head of the Prison concerned in writing of the result of each application and provide full details of the offenses, if any, in respect of which amnesty has been granted.

(2) The Head of the Prison shall inform the prisoner of the Committee's decision and, where applicable, release the prisoner as soon as possible thereafter.

(3) The Head of the Prison shall provide details of the prisoner's release, stating his or her name and date of release, in writing to the Committee and the South African Police Service's Criminal Record Centre immediately after such release.

General enquiries

9. The Department of Correctional Services shall assist the Committee with enquiries and problems regarding the applications of prisoners.