

Case # 7254

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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF JUSTICE DEPARTEMENT VAN JUSTISIE

No. R. 545

3 April 1998

PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995 MEASURES TO PROVIDE URGENT INTERIM REPARATION TO VICTIMS

The President has, under section 40 of the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995), in consultation with the Minister of Justice and the Minister of Finance, made the regulations in the Schedule.

SCHEDULE

Definitions

1. (1) In these regulations, any word to which a meaning has been assigned in the Act, shall bear that meaning and, unless the context otherwise indicates—

“**Accounting Officer**” means the accounting officer appointed by the Minister under section 42 (6) of the Act, or an officer designated by the Minister under section 42 (5) of the Act to whom the Accounting Officer has delegated any power or function to be performed by the Accounting Officer in terms of these regulations;

“**applicant**” means a person referred to the Committee in terms of section 25 (1) (a) (i) of the Act and who also applies to the Committee for urgent interim reparation in the prescribed form under section 26 (1) of the Act;

“**Commission**” means the Truth and Reconciliation Commission established by section 2 of the Act;

“**Committee**” means the Committee on reparation and Rehabilitation established by section 23 of the Act;

“**Fund**” means the Fund established under section 42 (1) of the Act; and

“**the Act**” means the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995).

(2) For the purposes of section 1 (1) of the Act—

(a) the relatives of a victim are—

- (i) a parent of, or somebody who exercises or exercised parental responsibility over a victim;
- (ii) a person married to a victim under any law, custom or belief; and
- (iii) a child of a victim, irrespective of whether such child was born in or out of wedlock or was legally adopted; and

(b) the dependants of a victim include any person to whom a victim has or had a legal or customary duty to support, or any other person who is or was, in the opinion of the Committee, dependent on a victim.

Application for urgent interim reparation

2. An application for urgent interim reparation in terms of section 26 (1) of the Act must be made in the form as set out in the Annexure.

Award of urgent interim reparation

3. (1) The Committee must consider each application for urgent interim reparation made to it in terms of section 26 (1) of the Act and if, in the opinion of the Committee—

- (a) the applicant is a victim; and
- (b) the applicant is alive at the time when the application is considered; and
- (c) the applicant is in urgent need of medical, emotional, educational, symbolic, social, legal or administrative assistance or intervention; and
- (d) the applicant has suffered hardship as a result of the gross violation of his or her human rights; and
- (e) the applicant is not a relative or dependant as defined in regulation 1 (2), of a victim who is alive on the date on which the application is submitted to the Committee,

the Committee must make a recommendation as contemplated in subregulation (2) in respect of such applicant.

(2) If the Committee—

- (a) finds that an applicant is a victim in need of urgent interim reparation as contemplated in subregulation (1), the Committee may, subject to the provisions of paragraph (b), recommend that an amount in respect of urgent interim reparation, not exceeding two thousand Rand, be paid to such a victim and that such information as the Committee may consider necessary for the victim to address his or her urgent needs referred to in subregulation (1) (c), be provided to such victim; or
- (b) is, in view of the exceptional circumstances of a particular case, of the opinion that it will cause undue hardship or will be manifestly unfair or unjust if the urgent interim reparation is limited as set out in paragraph (a), the Committee may, notwithstanding the provisions of paragraph (a), recommend that such greater amount as it may deem appropriate in view of such exceptional circumstances, be granted to such victim.

(3) The Committee cannot make a recommendation in terms of subregulation (2) for the granting of urgent interim reparation to a relative or dependant as defined in regulation 1 (2), of a victim who is alive on the date when the application is submitted to the Committee.

(4) The Committee must notify the Accounting Officer in writing of any recommendation in terms of subregulation (2), stating the full name and address of the victim, the amount of any payment to be made to the victim and the nature and extent of information to be provided to such victim.

(5) If the Committee recommends that an application for urgent interim reparation should be turned down, the Committee must notify the Accounting Officer in writing of its recommendation, stating the full name and address of the applicant and the reason or reasons why such application was turned down.

Giving effect to recommendation

4. (1) Upon receipt of a written notice as contemplated in regulation 3 (4), the Accounting Officer must, without delay—

- (a) notify the victim of the recommendation of the Committee and inform the victim of the power of the Commission in terms of section 5 (e) of the Act to review the recommendation of the Committee, should the victim feel aggrieved by such recommendation;
- (b) give effect to the recommendation of the Committee by arranging for payments from the Fund to the victim where the Committee recommended that an amount of money be paid to such victim; and
- (c) provide to a victim such information as may be recommended by the Committee.

(2) Upon receipt of a written notice as contemplated in regulation 3 (5), the Accounting Officer must, without delay, inform the applicant of the recommendation by the Committee, stating the reason or reasons why his or her application was turned down and informing the applicant that the Commission may, in terms of section 5 (e) of the Act, review the recommendation of the Committee.

Cession, attachment or assignment of urgent interim reparation

5. Despite domestic law, no award of urgent interim reparation shall—

- (a) be capable of cession or assignment by the victim to whom it has been awarded;
- (b) be capable of attachment under a judgment or execution of a judgment of a court of law; or
- (c) form part of the estate of the victim, should such estate be sequestrated.

Repeal of regulations

6. The Regulations published by Government Notice No. R. 846 of 17 May 1996, are repealed.

Annexure

REPARATION AND REHABILITATION APPLICATION FORM

The Reparation and Rehabilitation Committee of the Truth and Reconciliation Commission (TRC) will use this form to decide whether or not you should get reparation right now. The information you put in this form will help us decide what kind of reparation and/or rehabilitation you need. Please help us to make these decisions by giving us as much information as you can.

This is an application form to apply for reparation and rehabilitation in terms of section 26(1) of the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995). (Founding Act of the Truth and Reconciliation Commission.)

PLEASE READ THE FOLLOWING NOTES BEFORE COMPLETING THE FORM!!

- Use this form to apply for reparation as provided for by the Promotion of National Unity and Reconciliation Act, 1995.
- Only applicants who complete this form will be considered for reparation and/or rehabilitation measures.
- Please note that you can apply for urgent interim reparation only once.
- Only fill out this application form -
 - i. if the TRC has found that you are a victim; or
 - ii. if you are a dependant and/or a relative of a victim.
- You have been found to be a victim if you -
 - i. made a statement to the TRC and you have a letter from the TRC to say that you are a victim; or
 - ii. were named as victim in a statement to the TRC and have a letter from the TRC to say that you were named as a victim.
- **PLEASE, DO NOT FILL IN THIS FORM IF YOU ANSWERED 'NO' TO THE ABOVE QUESTIONS.**
- You are a relative and/or dependant of a victim if you are -
 - i. a parent of the victim (or if you act or acted in the place of a parent); or
 - ii. a husband or wife or partner of the victim (according to customary, common, religious and/or indigenous law); or
 - iii. a child of the victim (either in or out of marriage and/or adopted); or
 - iv. someone whom the victim has/had a customary and/or legal duty to support.
- Please answer all these questions and complete the checklist at the end of the form before you return the form to us. Return the form to the address that is on the last page of this form.
- If you run out of space while completing the form, please add more pages. Please remember to write your initials on every page of the form and on every page that you add.
- When you have finished filling in this form, you must sign it before a commissioner of oaths. The commissioner of oaths must sign the form too. You will find a commissioner of oaths at a police station or post office or lawyer's office.
- Please complete this application form and return it as soon as possible. Post it to the address on the last page of this form.

A. Statement to the Truth and Reconciliation Commission (TRC):

Did you make a statement to the TRC?	If yes, when did you make this statement? ____ / ____ / 19 ____	If you know your Reference Number please write it here (it should be on your letter from the Truth and Reconciliation Commission): -----
Where did you make the statement? Town		Province
Did someone help you to make the statement?	Name of the person who helped you:	

B. Are you a:

Please tick the appropriate box if yes.

Victim who made a statement?	<input type="checkbox"/>
Victim who was named in a statement?	<input type="checkbox"/>
Relative and/or dependant of a victim? *	<input type="checkbox"/>

For Official use:

Person who acted in the place of a parent for the victim? (If yes - please give detail.) _____ _____ _____

Someone whom the victim had a customary or legal duty to support? (If yes - please give detail.) _____ _____
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*If applying as a relative and/or dependant, please write down the name of the victim. Describe your relationship (e.g. mother, father, son, wife) to the victim.	
Name of victim	Relationship to victim

C. Your Personal Detail:

Surname	
First names	Title (<i>Mr, Miss, Mrs, etc.</i>)
If you are married, what was your surname before you were married?	
Type of ID document	Date of Birth
	Day__ Month ____ Year____
ID Number: _____	

Are you a South African citizen?	If you answered "No", name the country that you are a citizen of:

Are you employed?	If you are employed, what work are you doing?

D. Bank Detail:

If Reparation in the form of money is awarded to you, do you have a personal bank account? _____
Please give your banking detail below:

Name of Bank:
Branch:
Branch Code:
Type of Account:
Account Number:
Name of Account Holder:

If you do not have a personal bank account please indicate how the money can be paid to you:

E. Your Contact Detail:

Address to which post may be sent (if you do not have an address, who is the best person to contact, e.g. place of worship, school, community leader?)	Work Telephone Code ()
	Home Telephone Code ()
Where do you live at the moment?	
Block / Street & Number	Section / Extension
Township / Suburb	City
Province	Postal Code
District	Country

F. Consequences of the violation:

Please tell us how the gross human rights violation that you suffered has changed your life and what problems it has caused.

(If you are able to attach any supporting documents or papers, this will help to consider your application. Documents such as medical reports will help us.)

1. Did you suffer physical injuries as a result of the violation?

YES NO

Documentation attached?

If yes, please tell us how you are still suffering from these injuries .

2. Did the gross human rights violation hurt your feelings or affect your emotions?

Yes No

If yes, please give brief detail.

<p>3. Did the violation disrupt/ stop/affect your education?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Documentation attached?</p>	<p>If yes, describe how the violation affected your education and give details of your current educational situation.</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>4. Did the violation cause you to lose your shelter / accommodation?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Documentation attached?</p>	<p>If yes, tell us how the violation caused you to lose your shelter/accommodation.</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <p>Do you continue to need shelter as a result of the violation?</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>

<p>5. Did the violation that you suffered cause any other problems that you need urgent help with? If yes, tell us about them.</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	<p>Documentation attached?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
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G. Legal Matters:

1. If you are a relative and/or dependant of a victim who has died or someone who has disappeared, please tell us if the remains of the victim have been found and buried.

If not, do you want the person to be officially declared dead (death certificate be issued)?

Yes

No

In order for a person to be declared dead, the following information is needed from you:

a. When last did you hear any news/information about the person? What was that news?

b. When last did you see the person?

c. What was the age of the person **at the time** of disappearance?

d. What activity was the person involved in **at the time** of disappearance? (E.g. job, political activity.)

e. Briefly describe the circumstances of the person's disappearance (i.e. was the person exposed to any risk to life during the time of the disappearance).

<p>2a. Did you receive any compensation related to the violation, as part of a court case?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>2b. If yes, how much money was awarded and how much did you get?</p> <p>Awarded Received</p> <p><input type="text"/> <input type="text"/></p>	<p>2c. Are you still getting payments?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>When and where was the case heard?</p>		

3. After the violation, were you wrongly accused and/or given a criminal record?

Yes

No

If yes, please give detail:

Do you want your name to be cleared?

Yes

No

If yes, please give detail:

H. Relatives and/or Dependants:

Please provide the following information about the relatives and or dependants of the victim, if you can. (See definition on first page.)

Name of the victim: _____

*[Identify yourself by putting a * next to your name]*

	Name	Age	Female/ male
Parents of the victim <i>(someone who acts or acted as a parent)</i>			
Spouse(s) of the victim			

Children of the victim			
Someone the victim has or had a duty to support			

The deponent/applicant has acknowledged that he/she knows and understands the content of this declaration and that he/she hereby applies for reparation as provided for by the Regulations promulgated under section 40 of the Promotion of National Unity and Reconciliation Act, 1995.

This declaration was duly sworn to/solemnly affirmed before me at this ... day of 19... .. .

Signed by Commissioner of Oaths: _____

Signed by Applicant: _____

Please tick the right box or boxes

Did you complete/consider all the questions?	<input type="checkbox"/>
Did you attach additional pages?	<input type="checkbox"/>
Did a Commissioner of Oaths sign your application?	<input type="checkbox"/>
Did you write your initials on every page of the application form?	<input type="checkbox"/>

Please return the completed form to:

**Reparation and Rehabilitation Committee
c/o The President's Fund
Private Bag X81
PRETORIA
0001**