

Applying for the Royal Prerogative of Mercy

What is clemency?

The Royal Prerogative of Mercy (RPM), or clemency as it is commonly known, is a discretionary power based on the ancient right of the British monarch to grant mercy.

In Canada it is exercised by the Governor General or the Governor in Council (i.e., Federal Cabinet).

Clemency is granted in exceptional circumstances in deserving cases involving federal offences.

The Governor General or the Governor in Council grants clemency upon recommendation from the Minister of Public Safety Canada or at least one other minister.

What is the role of the Parole Board of Canada?

The role of the Parole Board of Canada (PBC) is to review clemency applications, to conduct investigations at the direction of the Minister of Public Safety Canada and to make recommendations to the Minister regarding whether to grant the clemency request.

What are the different types of remedies?

The *Letters Patent* authorizes the Governor General to grant any remedy that is suitable to the case, including, but not limited to:

- free pardons
- conditional pardons

- conditional release
- respite from the execution of a sentence
- remission of sentence
- remission of fines, forfeitures, estreated bails, pecuniary penalties and restitution orders, and
- cancellation or variation of a prohibition order.

The *Criminal Code* (s. 748 and 748.1) authorizes the **Governor in Council** to grant the following types of remedies:

- **Free pardon:** granted either because of the innocence of the person, or for humanitarian, compassionate or exceptional justice reasons. The person who receives a free pardon shall be deemed to never have committed the offence, and all consequences and records of the conviction will be cancelled.
- **Conditional pardon:** the criminal record is kept separate and apart from other criminal records prior to or in the absence of record suspension/pardon eligibility under the *Criminal Records Act*.
- **Conditional release prior to eligibility under the *Corrections and Conditional Release Act*:** the release of an individual from incarceration into the community, under supervision and subject to conditions, until the expiration of the sentence imposed by the court.

Canada.ca/clemency

Applying for the Royal Prerogative of Mercy

- **Remission of fine, forfeiture, estreated bails and pecuniary penalties:** setting aside of all, or part of the monetary penalty that was imposed by the court.

The **Governor General** can grant any remedy listed above along with the following remedies:

- **Remission of sentence:** setting aside of all or part of a custodial or non-custodial sentence imposed by the court.
- **Respite:** temporary interruption of the execution of a sentence.
- **Relief from prohibition:** cancellation or variation of a prohibition (e.g., prohibited from driving, prohibited from possessing firearms).

Can clemency be revoked?

Yes. All remedies described above are subject to revocation if the application was granted on the basis of information which is subsequently found to have been fraudulent.

All remedies, with the exception of free pardons, may be revoked if any condition under which they are granted is subsequently breached.

How much does it cost to apply?

There is no cost associated with the application. However, applicants are responsible for the cost of getting other documents needed for an application such as their fingerprints, criminal record, court documents, and police checks.

How does a person apply?

A person can apply directly to the PBC. Visit our website at Canada.ca/clemency for the official Application Guide and forms.

The length of time required to review clemency applications varies from case to case and is dependent on the circumstances of the case.

Does a person need to use a lawyer or third-party company?

No. Using a third-party company, which often charge high fees, will not guarantee clemency; fast track the review of an application; or give it a special status. Such claims are FALSE and MISLEADING.

Applicants requiring assistance beyond what the PBC provides through its website and 1-800 information line may be able to access community support services in their area.

For more information:

Canada.ca/clemency

1-800-874-2652 (toll-free)

clemency-clemence@pbc-clcc.gc.ca

Canada.ca/clemency