



appeal period, with good cause; or

- (c) Persons who have lost the right to appeal to the Supreme Court due to a failure to lodge the appeal within the appeal period, with good cause;
- (d) Where the sentence imposed is for the payment of a sum of money only, persons who accept the sentence and wish to forego the right of appeal.

Categories of  
clemency

4. Clemency is divided into the following 5 categories under this Act.

- (a) Pardon of the penalty imposed on a person for the committed offence;
- (b) Suspension of the penalty imposed on a person for the committed offence, for a specified period;
- (c) Remission of the penalty imposed on a person for the committed offence;
- (d) Where the law provides the option for lighter penalties for the committed offence, alter the penalty imposed to such lighter type of penalty;
- (e) Where the penalty imposed for the committed offence is the payment of a sum of money, waiver of the obligation for payment, or reduction of the amount payable.

Offences which  
cannot be pardoned

5. (a) The offences below are offences for which a pardon shall not be granted under section 4 (a) of this Act, the penalty imposed shall not be suspended under subsection (b) of that section and a pardon shall not be granted under any other section of this Act. Notwithstanding the above, this Act does not prohibit a remission under subsection (c) of that section, or alteration of the type of penalty under subsection (d) of that section, or commutation under any other section of this Act.

(1) Offence of murder.



- (2) Offences for which *Hadd* is prescribed under Islamic *Sharia*
  - (3) Offence of terrorism.
  - (4) Sexual offence against a minor.
  - (5) Offence of trafficking in drugs.
  - (6) Offence of sexual assault.
  - (7) Offence of sexual intercourse with another individual of the same sex.
- (b) Notwithstanding any provision to the contrary in this Act, even though a person sentenced for the offence of theft of property or moneys of an individual or the State is pardoned, or such person's penalty is commuted under this Act, the obligation to make the full payment of the value of the property proved stolen or payment of the amount of money proved stolen may not be pardoned or commuted.
- (c) Notwithstanding any provision to the contrary in this Act, if the commission of an offence involves the infringement of the rights of another person, unless such person waives their right, the offender shall not be pardoned. However, such offender's penalty may be commuted.
- Appeal for clemency      6. (a) Any person appealing for clemency under any category prescribed in this Act shall do so through the "clemency appeal form" allocated for that purpose.
- (b) The form referred to in subsection (a) shall be addressed to the President and submitted to the President's Office.
- (c) The "clemency appeal form" shall be made available from places determined by the President's Office.
- Period for appeal for      7. Except where the sentence imposed for the committed



- clemency offence is the payment of a sum of money, any appeal for clemency under this Act shall be made after the offender has served one third of the term of the penalty imposed for the offence.
- Conditions for appeal 8. An appeal for clemency under this Act may be made only by a person who falls within section 3 of this Act and has served the requisite time period under section 7 of this Act.
- Evaluation of appeals 9. The clemency board established by the President under section 10 of this Act shall evaluate the appeals for clemency submitted to the President and advise the President on the action to be taken with regards to such appeals.
- Clemency Board 10. (a) The President shall establish a board comprising of 11 members, named the “clemency board”, to undertake the responsibilities set out in Section 9 of this Act and to carry out any other responsibilities of the board set out in this Act.
- (b) The President shall appoint members to the board established under subsection (a) and remove members from the board.
- (c) The Attorney General shall issue and publish a regulation prescribing the procedures for the appointment and removal of members of the board established under subsection (a), the procedures for the conduct of board meetings, and the decision making procedures of the board.
- (d) The board established under subsection (a) shall function under the supervision of the Attorney General. And for the purpose of this Act, the Attorney General shall be the president of the board.
- Members of the board 11. The President shall give priority for the inclusion of persons from the following sectors as members of the board established under section 10 of this Act.
- (a) A person from the legal sector.



- (b) A person from the education sector.
  - (c) A person from the social sector.
  - (d) A person from the health sector.
  - (e) A religious scholar.
  - (f) A person from a civil association.
  - (g) A person from the parole board.
  - (h) A person from the police sector.
  - (i) A person from the judiciary.
  - (j) A member of the Parliament, appointed by the Parliament.
- Powers of the board      12. (a) When evaluating an appeal under section 9 of this Act, the board shall have the discretion to interrogate and summon persons as required.
- (b) The board has the discretion to carry out evaluations as required under section 9 of this Act, conduct inquiries, and if the board considers it necessary, seek assistance of any State institution, obtain any report or document concerning the case from any State institution, and to require responses from employees or heads of relevant State authorities by meeting with them or in written or oral form.
- Refrain from cases involving conflicts of interest      13. (a) Where the board is evaluating an appeal that involves a personal interest, role, or financial interest of a member or other personal benefit to a member, such member shall not be involved to any extent in the evaluation of the appeal or decision making with regards to the appeal. Even where it was previously not known that the appeal under evaluation involves a personal interest, role, or financial interest of a member or other personal benefit to a member, such member shall, upon becoming aware of it, notify the president of the board about the same, and refrain



from any involvement in the evaluation of such appeal or decision making with regards to such appeal.

Communicating with the victim

14. (a) If any person had suffered loss due to the offence committed by the applicant for clemency, it is obligatory for the board to notify the victim of the following information, upon the commencement of evaluation of such appeal, or with regards to such appeal.

- (1) That an appeal for clemency has been submitted.
- (2) That the victim has the opportunity to submit to the board points regarding the grant of clemency with regards to the appeal.
- (3) If the President has made a decision concerning the appeal, the decision.

(b) For the purpose of this section, the information required to be notified to the victim by the board under this Act shall be deemed to have been notified where the information is provided by writing through registered post to the official registered address of the person, unless that person has requested otherwise.

Meeting with the victim

15. (a) If any person had suffered loss to the offence committed by the applicant for clemency, the board shall meet with the victim if it is determined by the majority opinion of the members of the board that it is necessary in the evaluation of the appeal to meet with the victim and seek their opinion on the case concerned. Under other circumstances it is in the discretion of the board whether to do so.

(b) In deciding whether it is necessary to meet with the victim of an offence committed by the applicant for clemency, the board shall consider the following.

- (1) Gravity of the offence;



- (2) How recently the offence was committed;
- (3) Type of offence;
- (4) Level of loss caused by the offence;
- (5) Criminal record of the offender;
- (6) Criminal history of the offender, if any;
- (7) Level of violence involved in the commission of the offence.

- Victim of a crime      16. For the purpose of this Act, a victim of a crime shall be considered the following.
- (a) A person who suffered or feared direct physical, tangible, psychological or financial loss, due to the offence committed; or
  - (b) If a person died due to the offence committed, their inheritors.
- Advising the President      17. (a) Upon receiving an appeal for clemency, the board shall complete the evaluation of the appeal and advise the President with regards to the appeal in writing, not more than 90 (ninety) days after the receipt of such appeal.
- (b) In the provision of advise to the President by the board under subsection (a), such advice shall be based on one of the following types.
    - (1) Clemency should be granted as requested in the appeal;
    - (2) Clemency should not be granted as requested in the appeal, and that clemency should not be granted under any of the categories permitted under this Act;
    - (3) Clemency should not be granted as requested in the appeal, but that clemency should be



granted under a different category permitted under this Act, and what that category should be.

- (c) In formulating the advice under this section, the board shall clearly state its reasoning.
- Notification of clemency 18. (a) Where the President grants clemency as requested in the appeal, the President shall notify the applicant and all relevant State institutions in writing.
- (b) Where the President refuses to grant clemency as requested in the appeal, the President shall notify the applicant in writing. The document of notification sent by the President shall include the reasoning for the refusal.
- Rejection of the advice 19. (a) The President may act upon or reject the advice of the board with regards to an appeal for clemency.
- (b) Where the President decides to reject the advice of the board with regards to an appeal for clemency, the President shall notify the reasoning for the rejection to the board in writing.
- Disclosure of information 20. (a) Upon the submission of an appeal for clemency, documents relating to the applicant exchanged between the relevant State institutions and the documents considered to be related to the case shall, as a general rule, be shared only among the parties and institutions involved in the evaluation of the appeal.
- (b) Notwithstanding subsection (a), where the board determines that disclosure of part or all of the information is required under an Act, or is required in the interests of justice under a particular circumstance, the board may disclose such information.
- Special procedure relating to death sentence 21. Notwithstanding any other provision to the contrary in this Act, if the Supreme Court imposes the death sentence on a person, or if the Supreme Court upholds the decision of a



lower court or the High Court imposing the death sentence, the President shall have the discretion under this Act to alter the death sentence to life imprisonment, taking into consideration the status of the offender, the relevant *Sharia* principles, State interest, and humanitarian standards. However, once the sentence is so altered, the altered sentence shall not be pardoned under any provision of this Act.

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| Conditional grant of clemency                                   | 22. | <p>(a) Where the President grants clemency under any of the categories prescribed under this Act, the President shall have the discretion to grant such pardon or commutation of sentence, with any attached condition determined by the President.</p> <p>(b) Where a condition determined by the President under subsection (a) is breached, the pardon or commutation of sentence shall be nullified and the offender shall revert to their previous state, and shall serve the remainder of the sentence.</p> |
| Authentic information   | 23. | <p>(a) When appealing for clemency under this Act, it is mandatory upon the applicant under this Act, to state or submit truthful and complete information in the application or in relation to the application.</p> <p>(b) When evaluating any appeal under this Act, if it is discovered that any information included in the application or submitted in relation to the application is inaccurate, the President has the discretion to conclude it as a breach of this section and dismiss the appeal.</p>    |
| Factors to be considered to grant pardons for ongoing sentences | 24. | <p>Where an offender serving a sentence appeals for a pardon of the offence, the board shall consider the following when evaluating such appeal.</p> <p>(a) Information about the case.</p> <p>(b) Points noted during the investigation of the case.</p> <p>(c) The offender's improper acts and their extent.</p>   |



- (d) The circumstances under which the offence was committed.
- (e) Extent of loss suffered due to the offence committed.
- (f) The circumstances under which the loss was suffered due to the offence committed.
- (g) The extent of the offender's involvement in other criminal offences.
- (h) The reputation of the offender in the society.
- (i) The extent of loss suffered by the victims.
- (j) Grounds for the prosecution.
- (k) The conduct of the offender after the conviction.
- (l) Efforts made to get rehabilitated.
- (m) Conduct while serving sentence.
- (n) The extent to which the question of whether the offender will reoffend if a pardon is granted, can be answered.

Factors to be considered to grant commutation of sentence

25. Where an offender serving a sentence appeals for a commutation of sentence, the board shall consider the following when evaluating such appeal.
- (a) The level and severity of the penalty.
  - (b) The level of other penalties generally given for the same offence.
  - (c) Having a special disease.
  - (d) Old age.
  - (e) Service to the country.
  - (f) Conduct towards persons involved in the criminal



justice system, up to the point of conviction.

- (g) Proportion of the penalty served.
  - (h) Conduct while serving sentence.
  - (i) Efforts made to seek pardon from the victims of the offence.
- Pardon of the offence does not expunge the criminal record
26. (a) Except for the criminal records of persons falling within subsection (a) of section 29 of this Act, the offence pardoned shall not be expunged from the criminal record of any other persons pardoned under this Act.
- (b) Where the President grants a pardon to persons falling within subsection (a) of section 29 of this Act, their criminal record shall be expunged.
- Effect on the right to claim compensation
27. Granting a pardon under this Act for an offence committed or the commutation of the penalty imposed on a person for the committed offence, shall not affect the right of the victim to file a claim for compensation for loss suffered due to the offence.
- Validity of the sentence not to be questioned
28. (a) All persons shall accept that the sentence associated with the submitted appeal for clemency is valid.
- (b) The validity of the conviction, how the offence was proved, or how the sentence was arrived at against the person appealing for clemency under this Act, may not be analysed or decided upon when evaluating an appeal.
- Special procedure for pardon
29. (a) The President has the discretion, on the President's own initiative without the submission of an appeal, to grant pardons for persons sentenced prior to the commencement of the Constitution of 7 August 2008 whose penalties fall within the following, with reference to a category prescribed under section 4 of this Act.
- (1) Persons serving sentence for an act which was



an offence prior to 7<sup>th</sup> August 2008, but not an offence after that date.

- (2) Persons serving sentence for an offence, where the person was convicted based on a lower standard of proof than the standard of proof required after 7 August 2008 under the Constitution or law.
  - (3) Prior to 7 August 2008, persons below 18 years of age at the time of commission of the offence.
  - (4) Persons serving sentence for an offence, where the sentence was imposed prior to 7 August 2008, based only on their confession during the investigation.
  - (5) Persons serving a sentence imposed, prior to 7 August 2008, with the view that an act committed in carrying out a political activity rather than an offence committed against the state, was an offence.
- (b) Notwithstanding any other provision to the contrary in this Act, where a sentence or sentences imposed on a person exceeds 25 years and if such person has served a period of 25 years in prison for such sentence or sentences, the President has the discretion, on the President's own initiative, to grant a pardon to such person based on their conduct, health, status and circumstance.
- (c) The President has the discretion, on the President's own initiative, to commute the sentence of a person convicted of a criminal offence, based on their age, health, treatment they are currently undergoing, their status and circumstance, or from a humanitarian perspective.

Issue and  
administration of  
regulations

30. Regulations required under this Act shall be issued and administered by such person determined by the President. Such Regulations shall be issued and published in the



government gazette within 6 (six) months from the commencement of this Act.

Commencement 31. This Act shall commence after its passage, from the date of its ratification and publication in the government gazette.

Interpretation 32. In this Act, unless otherwise provided;  
“board” means the clemency board established under section 10 of this Act.

“appeal” means the application for clemency submitted to the President under this Act.

“pardon of offence” or “pardon” means the decision of the President, with regards to an appeal submitted under this Act, to pardon the penalty in full or in part or to commute the penalty of a person serving a sentence, under a category prescribed in section 3 of this Act.

“commutation of penalty” includes the alteration of a penalty to a lighter penalty with or without an attached condition, remission of a penalty imposed on a person, or suspension of a penalty imposed on a person.

“Supreme Court” means the highest court of appeal in the judicial system of Maldives, named the “Supreme Court”.

“humanitarian point of view” means all circumstances that require compassion and caring for a human being.

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