

THE ROYAL PREROGATIVE OF MERCY
MISCARRIAGES OF JUSTICE



APPLICATION FORM



DO YOU NEED HELP TO READ THIS FORM?

- If you are not fluent in English, please contact the Chief Legal Counsel at the Ministry of Justice who will try to direct you to a person who can assist you.
- Mēnā kāore koe e tino matatau ki te reo Ingarihi, tēnā whakapā atu ki Te Rōia Matua ā-Ture i Te Tāhū o Te Ture, ā, māna koe e tohutohu ki tētahi tangata hei āwhina i a koe.
- Me karekoe e kite meitaki i te reo Papa'a, me ka tika, e aravei atu koe i te Tangata Maata o te Ture (Chief Legal Counsel) i ko i te Minitiri o te Ture (Ministry of Justice), e nana e kimi ravenga i te akakite atu i te tangata te ka rauka i te tauturu ia koe.
- Kevaka ko sega ni kila vinaka sara na vosa vaka-vaalagi, yalo vinaka mo veitaratara kei na Dau-Ni-Vakasala-Liu Vakalawa ena Tabana Ni Veika Vakalawa. Ena qai vagolei iko ko koya vua edua ka na rawa me vukei iko ena ka ko vinakata.
- Afai e lē lelei lau tautala fa'aperetania, fa'amolemole e fa'afeso'ota'i le Loia Ta'ita'i mo Fautuaga tau i le Tūlāfono (Chief Legal Counsel) i le Matāgaluega o Fa'amasinoga ma o ia o le a taumafai e fa'asino 'oe i se tagata e mafai ona fesoasoani atu ia te 'oe.
- Kapau 'oku 'ikai ke fu'u lelei 'a ho'o lea faka-Pilitānia', kātaki 'o fetu'utaki ki he Fakahinohino Lao Pule (Chief Legal Counsel) 'i he Potungāue Lao' (Ministry of Justice) pea te ne feinga ke fakafetu'utaki koe mo ha tokotaha te ne lava 'o tokoni'i koe'.
- 如果您英語溝通有困難，請與司法部的首席法律顧問聯絡，他將竭力為您指定一名協助人員。

PURPOSE

THIS FORM SETS OUT IMPORTANT INFORMATION THAT IS REQUIRED FROM A PERSON WHO WISHES TO APPLY TO THE GOVERNOR-GENERAL FOR EXERCISE OF THE ROYAL PREROGATIVE OF MERCY.

A separate brochure provides additional information about the Royal prerogative of mercy. It can be downloaded from this site: <http://www.gg.govt.nz/role/royalprerogative.htm>

Completed forms, together with any supporting documents, should be sent to the following address:

**Official Secretary to the Governor-General
Government House
Private Bag
Wellington**

WHAT HAPPENS TO THIS APPLICATION FORM?

Once the Governor-General has received a completed application form, it is referred to the Minister of Justice with a request for the Minister's formal advice. The Minister of Justice will then forward the application form, along with any other documents supplied with it, to officials at the Ministry of Justice for investigation and report.

The Ministry of Justice will contact you at an early stage to tell you about the next steps and let you know what to expect.

The Ministry of Justice will review all of the information and submissions you supply with your application. Sometimes, additional information will be gathered or further inquiries made. On occasions, an independent lawyer, or an adviser who has expertise in a particular area, may be appointed to help consider an application. The Ministry may also request that the Police or the prosecution make a submission about an application or a part of it, if a response is required from them.

The Ministry will not, however, seek information from your former lawyer or lawyers without first asking you to waive legal professional privilege.

At the end of this process, the Ministry will provide its report to the Minister of Justice. The Minister of Justice will then decide what advice to give the Governor-General. The Governor-General will consider and act on the Minister's advice. The Official Secretary to the Governor-General will write to you, or to the person acting on your behalf, with the decision and inform you of any further steps that may be required.

GUIDANCE AND INFORMATION

BEFORE DECIDING WHETHER TO MAKE AN APPLICATION FOR THE EXERCISE OF THE ROYAL PREROGATIVE OF MERCY, IT IS IMPORTANT TO CONSIDER THE INFORMATION AND QUESTIONS ON THIS PAGE.

- The Royal prerogative of mercy applies to criminal cases. It can be exercised where a person claims to have been wrongly convicted or sentenced. The Governor-General has power to grant a pardon, to refer a person's case back to the courts under section 406 of the Crimes Act 1961, and to reduce a person's sentence. If a person's case is referred back to the courts, it will be considered in a similar way to an appeal.
- The Royal prerogative of mercy does not give the Governor-General any powers to intervene in non-criminal proceedings, to decide disputes, or to declare that someone's conduct is unlawful.
- An application for exercise of the Royal prerogative of mercy will normally be considered only after rights of appeal have been used. If you have not yet appealed against your conviction or sentence, you should seek legal advice promptly, even if the time limit to lodge an appeal has passed.
- A case will normally be re-opened when new information becomes available that was not able to be properly examined by a court and which raises serious doubts about a person's conviction or sentence. The Royal prerogative of mercy does not operate as another appeal or a further opportunity to re-examine facts and arguments that have already been considered by the courts.
- An application can be made by a convicted person or someone on that person's behalf, such as a lawyer. You may wish to consider whether a lawyer should advise you on the merits of making an application and, if you go ahead, help you collect relevant information and prepare your submissions.
- You may be entitled to legal aid to help pay for a lawyer. The Legal Services Agency decides if someone is eligible for legal aid.
- If you make an application, it is your responsibility to keep the Ministry of Justice informed of your current contact details.

PLEASE ANSWER THE FOLLOWING QUESTIONS.

1. HAVE YOU BEEN CONVICTED OF A CRIMINAL OFFENCE IN NEW ZEALAND?
 YES NO
2. HAVE YOU APPEALED AGAINST YOUR CONVICTION AND/OR SENTENCE?
 YES NO
3. DO YOU BELIEVE THAT YOU HAVE SUFFERED A MISCARRIAGE OF JUSTICE IN RELATION TO YOUR CONVICTION AND/OR SENTENCE?
 YES NO
4. DO YOU HAVE NEW INFORMATION ABOUT YOUR CONVICTION AND/OR SENTENCE THAT HAS NOT PREVIOUSLY BEEN EXAMINED BY A COURT?
 YES NO

IF YOU ANSWERED **NO** TO ANY OF THESE QUESTIONS, YOU SHOULD NOT GO AHEAD WITH THIS APPLICATION. YOU SHOULD, HOWEVER, CONSIDER TALKING TO A LAWYER ABOUT YOUR CASE IF YOU HAVE NOT ALREADY DONE SO. IF YOU ANSWERED **YES** TO ALL 4 QUESTIONS, YOU MAY WISH TO MAKE AN APPLICATION FOR THE EXERCISE OF THE ROYAL PREROGATIVE OF MERCY.

IF YOU DECIDE TO MAKE AN APPLICATION, PLEASE COMPLETE THE REST OF THIS FORM.

THE INFORMATION REQUESTED IN THIS FORM IS ESSENTIAL TO YOUR APPLICATION. PLEASE TRY TO ANSWER ALL OF THE QUESTIONS.

PART 1 – PERSONAL INFORMATION

1. WHAT IS YOUR SURNAME (LAST NAME)?

2. WHAT ARE YOUR FIRST NAMES?

Please include any middle names.

3. HAVE YOU EVER BEEN KNOWN BY ANY OTHER NAMES?

YES NO (If you have answered YES to this question, please state your other names.)

4. WHAT IS YOUR DATE OF BIRTH?

..... /..... /.....

5. ARE YOU MALE OR FEMALE?

Please tick the correct box Male Female

6. WHAT IS YOUR ETHNIC BACKGROUND? e.g. NZ European, Māori, Samoan?

This information will be held by the Ministry as part of statistical information about applicants.

7. IF YOU ARE IN PRISON, WHAT IS THE NAME OF THE PRISON?

8. IF YOU ARE IN PRISON,

A) WHAT IS THE FIRST OR NEXT YEAR IN WHICH YOU WILL BE ELIGIBLE TO BE CONSIDERED FOR PAROLE?

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B) WHAT IS YOUR STATUTORY RELEASE DATE?

..... /..... /.....

9. IF YOU WERE SENTENCED TO PRISON, BUT HAVE NOW BEEN RELEASED, WHAT WAS THE DATE OF YOUR RELEASE?

..... /..... /.....

10. WHAT IS YOUR POSTAL ADDRESS?

Please note that it is very important that, if you change your address or are released from prison, you keep the Ministry of Justice informed of your new contact details.

11. WHAT ARE YOUR CONTACT TELEPHONE NUMBERS?

PART 2 – ASSISTANCE WITH YOUR APPLICATION

12. IN MAKING THIS APPLICATION, IS A LAWYER OR ANOTHER PERSON REPRESENTING YOU OR ACTING ON YOUR BEHALF?

YES NO

If you have answered YES to this question, please continue to the next question.

If you have answered NO, please go to question 18.

13. WHAT IS THE NAME OF YOUR LAWYER OR REPRESENTATIVE?

14. WHAT IS THEIR ADDRESS?

15. WHAT IS THEIR TELEPHONE NUMBER?

16. PLEASE TICK THIS BOX IF YOU WISH THE MINISTRY OF JUSTICE TO CORRESPOND DIRECTLY WITH YOUR LAWYER OR REPRESENTATIVE.

17. PLEASE TICK THIS BOX IF YOU WISH TO RECEIVE COPIES OF CORRESPONDENCE BETWEEN THE MINISTRY OF JUSTICE AND YOUR LAWYER OR REPRESENTATIVE.

PART 3 – DETAILS ABOUT YOUR CASE

18. ARE YOU SEEKING A REVIEW OF YOUR CONVICTION(S)?

YES NO

19. ARE YOU SEEKING A REVIEW OF YOUR SENTENCE(S)?

YES NO

20. WE NEED DETAILS OF THE COURT IN WHICH YOU WERE CONVICTED.

Please tick the box which describes the court in which you were convicted.

- High Court (with a jury)
 - High Court (without a jury)
 - District Court (with a jury)
 - District Court (without a jury)
-

21. NAME THE TOWN OR CITY OF THE COURT WHERE YOU WERE CONVICTED?

22. WHAT WAS THE DATE OF YOUR CONVICTION OR CONVICTIONS?

..... / /

23. IF YOU KNOW THE COURT REFERENCE NUMBER OF THE PROCEEDINGS, PLEASE SUPPLY IT HERE.

31. WE NEED DETAILS OF THE COURTS WHERE YOUR APPEALS HAVE BEEN CONSIDERED.

Please tick the box that describes the court where your appeal or appeals were considered, and give the date or dates for any hearings and decisions.

	Tick here if you appealed to any of these courts	Date of court hearing	Date of court's final decisions
High Court			
Court of Appeal			
Supreme Court			
Privy Council			

32. WHAT WAS THE OUTCOME OF YOUR FIRST APPEAL?

33. IF YOU APPEALED TWICE, WHAT WAS THE OUTCOME OF YOUR SECOND APPEAL?

34. PLEASE PROVIDE ANY COURT REFERENCE NUMBERS FOR YOUR APPEAL OR APPEALS.

35. IF YOU DID NOT APPEAL YOUR CONVICTION(S) OR SENTENCE(S), PLEASE EXPLAIN WHY YOU DECIDED NOT TO APPEAL.

36. IF YOU TOOK STEPS TO APPEAL BUT WITHDREW OR ABANDONED THE APPEAL, PLEASE DESCRIBE WHAT HAPPENED.

PART 5 – PREVIOUS APPLICATIONS

WE NEED INFORMATION ABOUT ANY OTHER APPLICATIONS YOU HAVE MADE TO THE GOVERNOR-GENERAL FOR EXERCISE OF THE ROYAL PREROGATIVE OF MERCY.

37. HAVE YOU MADE ONE OR MORE PREVIOUS APPLICATIONS FOR EXERCISE OF THE ROYAL PREROGATIVE OF MERCY?

YES NO

If you have answered YES to this question, please continue to the next question. If you have answered NO, please go to question 40.

38. WAS THE APPLICATION OR APPLICATIONS ABOUT THE SAME CASE AS THIS CURRENT APPLICATION?

YES NO

39. WHAT WAS THE DATE OR DATES THAT THOSE APPLICATIONS WERE MADE?

PART 6 – GROUNDS FOR APPLICATION FOR EXERCISE OF THE ROYAL PREROGATIVE OF MERCY

REMEMBER THAT YOUR CASE WILL NORMALLY ONLY BE RE-EXAMINED WHEN NEW INFORMATION BECOMES AVAILABLE THAT FOR SOME REASON WAS NOT ABLE TO BE PROPERLY EXAMINED BY A COURT.

Usually, your application will not be considered if there is a right of appeal still open to you in a court, or if you have no new arguments or evidence.

In this section, you need to clearly list the grounds on which your application is based, as briefly as you can.

40. WHAT ARE THE GROUNDS OF YOUR APPLICATION?

(a)

(b)

(c)

(d)

(e)

(f)

PLEASE PROVIDE SEPARATELY YOUR DETAILED SUBMISSIONS EXPLAINING WHY, IN RELATION TO EACH GROUND, YOU CONSIDER A MISCARRIAGE OF JUSTICE OCCURRED IN RESPECT OF YOUR CONVICTION(S)/SENTENCE(S).

(SEE NEXT SECTION)

ACCOMPANYING SUBMISSIONS AND DOCUMENTATION

Please supply any accompanying documents that support the grounds of your application, including, for example:

- any submissions you wish to make about the grounds of your application;
- any statements or affidavits made by witnesses;
- any reports or tests on new evidence or information relating to your case.

There will be an opportunity to send in additional documents when the Ministry acknowledges that it has received this form, and outlines the process from that point.

If you send any documents with this form, please list them below.

41. WHAT IS THE TITLE OF EACH DOCUMENT?

(a) _____

(b) _____

(c) _____

(d) _____

(e) _____

(f) _____

(g) _____

(h) _____

(i) _____

(j) _____

PLEASE LIST ADDITIONAL DOCUMENTS ON ANOTHER PAGE

PART 7 – LAWYER(S) AT TRIAL AND APPEAL

42. WHAT IS THE NAME AND ADDRESS OF THE LAWYER WHO REPRESENTED YOU AT TRIAL?

43. WHAT IS THE NAME AND ADDRESS OF THE LAWYER WHO REPRESENTED YOU ON APPEAL?

44. WHO IS THE LAWYER WHO HOLDS YOUR TRIAL AND/OR APPEAL PAPERS?

PART 8 – AUTHORISATION TO CONSIDER APPLICATION

I want to submit this application to the Governor-General to request a review of my case. I know that this means that the application will be referred to the Minister of Justice for formal advice and that the Minister will refer the application to the Ministry of Justice for investigation and report.

I understand and agree that, to review my case, the Ministry of Justice will hold information about my case that is provided with this application, and may obtain other information about my case.

I also understand and agree that the Ministry may disclose information about my case to other persons such as:

- an independent lawyer who is asked to help with consideration of my case, or
- an adviser who has expertise in a particular area raised by the application; or
- the Police or the prosecution if a response is required from them.

I understand that the Ministry will not, however, seek information from my former lawyer or lawyers without first asking me to waive legal professional privilege.

I understand that, in obtaining, using and disclosing information about my case, the Ministry is subject to and will comply with the Privacy Act 1993 and Official Information Act 1982.

45. SIGN YOUR NAME HERE

46. DATE OF SIGNING

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