

## Conditional Release of Privates According to Law Number 22 of 2022 Concerning Correction

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### Abstract

*This article discusses the terms and procedures for parole of convicts according to law number 22 of 2022 concerning correctional facilities. Analysis was carried out on regulations related to parole including Regulations of the Minister of Law and Human Rights and laws related to parole. This research was conducted based on qualitative methods using literature studies sourced from laws and regulations, books and scientific journal articles. This article concludes that conditional release of convicts complies with applicable operational standards.*

**Keywords:** Parole, Convicts, Correctional

## INTRODUCTION

System punishment in Book the law Invite Law Criminal (KUHP) covers criminal, Which the types mentioned in Chapter 10 Criminal Code And action, between other action Which called “*voorwaardelijke invrijheidstelling*” which is regulated in Article 15, Chapter 15a, Chapter 15b, Chapter 16, And Chapter 17 Criminal Code. Term *voorwaardelijke invrijheidstelling* by PAF Lamintang And CD Samosir in translation to Chapter 15 use term “released with condition” whereas Team Translation Body coaching Law National (BPHN) in translation Chapter 15 use term “release conditional”.

Conditional release is a coaching program to integrate convicts and children into social life after serving a minimum 2/3 (two thirds) of a sentence, provided that 2/3 (two thirds) of a sentence is at least 9 (nine) months.

Conditional release is part of the Correctional function which is a criminal justice subsystem that administers law enforcement in the field of treatment of prisoners, children and inmates. Provisions regarding parole have also been regulated in Law number 22 of 2022 concerning Corrections and Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Family Visiting Leave, Parole, Leave before release, and Conditional Leave and Regulation of the Minister of Law and Human Rights Number 7 of 2022 concerning the Second Amendment to Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Before Release, and Conditional Leave.

Basically, the purpose of parole is to prepare and equip these convicts so that they can be accepted back into social life and receive guidance while serving their sentence at the State Detention Center/Prison Institution which will be useful when the convict returns to social interaction in society.

## METHOD

The research method we use is a qualitative methodology using literature studies sourced from laws and regulations, books, and scientific journal articles.

## RESULT AND DISCUSSION

### A. TERMS AND PROCEDURE FOR CONDITION

Provisions for conditions and procedures for parole for convicts as stipulated in Articles 15, 15a, 15b and 16 of the Criminal Code can be found in the following key matters:

Article 15 of the Criminal Code:

- (1) If the convict has served two-thirds of the length of the prison sentence Which dropped to her, at least must nine month, then he can be subject to conditional release. If the convict must carry out some criminal consecutive, criminal That considered as One criminal.
- (2) When give release conditional, determined on something period changes, as well as specified conditions that must be met during the period test.
- (3) The probationary period is the same length as the remaining prison term not yet lived, plus one year. If the convict is in custody Which legitimate, so time That No including period test.

Article 15a of the Criminal Code:

- (1) Conditional release is granted with the general condition that the convict is not will do follow criminal And deed other Which No Good.
- (2) In addition, special conditions regarding behavior may also be added convict, origin just No reduce independence religion And independence politics.
- (3) Those entrusted with supervising so that all the conditions fulfilled are officials the in chapter 14d paragraph 1.
- (4) In order to fulfill the requirements, special supervision can be held solely must aim give help to convict
- (5) During the trial period, the terms can be changed or deleted or can new special conditions are made, as well as supervision can be held special. That special oversight can be assigned to someone else than oarng originally entrusted.
- (6) Person Which get conditional release given a letter fit Which load conditions that must be met. If the things mentioned in verse in on run, so person That given letter fit Which new.

Article 15b of the Criminal Code:

- (1) If person Which given release conditional during period test do things that violate these conditions in the letter of pass, things in above done. The Minister of Justice can terminate the parole the For temporary time.
- (2) The time during which the convict is conditionally released until serving his sentence again, No criminal time.
- (3) If three months after the trial period expires, no conditional release can revoked return, except If before time three month past, the convict is prosecuted for committing a crime during the probationary period, And demands end with decision criminal Which become still. Release conditional Still can revoked in time three month conditional can still be revoked within three months after the decision become still based on consideration that convict do follow punishment for probational period.

Article 16 of the Criminal Code:

- (1) Conditional release conditions are determined by the Minister of Justice above suggestion or after get news from administrator prison the place of the convict, and after receiving a statement from the local prosecutor where the convict came from. Before making a decision, the opinion of the Central *Reclasing* Council must first be asked , whose duties are regulated by the Minister of Justice.
- (2) Provision unplug release conditional, so Also things Which referred to in Article 15a paragraph 5, determined by the Minister of Justice above suggestion or after get news from prosecutor place origin convict. Before cut off, must asked formerly opinion Board *Reclasing*Center.
- (3) As long as the release can still be revoked, then on the order of the local prosecutor where he is, the person being released is conditional on the person being releasedconditional can detained To use guard order general, If There is reasonable suspicion that the person during the probationary period has been do things Which violate conditions the in letter just right. prosecutor must quick tell detention That to Minister Justice.
- (4) The maximum holding time is sixty days. If detention follows by temporary suspension or withdrawal of release conditional, so person That considered forward undergo the crime start from prison.

In addition to the main provisions as stipulated in the Criminal Code, there is also the matter of parole as stated in Article 10 of Law Number 22 of 2022 Concerning Corrections as follows:

Article 10 :

- (1)In addition to the rights referred to in Article 9, convicts who have met certain requirements without exception are also entitled to:
  - a. remission; b. assimilation; c. leave to visit or be visited by family; d. conditional leave. leave before release; f. parole;
  - g. other rights in accordance with the laws and regulations.
- (2)Certain requirements as referred to in paragraph (1) include:
  - a. well behaved; b. actively participating in coaching programs; danc. has shown a reduced level of risk.
- (3)In addition to fulfilling certain requirements as referred to in paragraph (2), convicts who will be given leave prior to release or parole as referred to in paragraph (1) letter e and letter f must also have served a criminal term of at least 2/3 (two thirds) ) provided that 2/3 (two thirds) of the criminal period is at least 9 (nine) months.
- (4)The granting of rights as referred to in paragraph (1) does not apply to convicts who are sentenced to life imprisonment or death row inmates.

Conditions for granting parole according to Article 82 of Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave before release, and Conditional Leave are as follows:

Article 82 :

Conditional release is granted to convicts who meet the following conditions:

- a. Has served a criminal period of at least 2/3 (two thirds), provided that 2/3 (two thirds) of the criminal period is at least 9 (nine) months;

- b. Have good behavior while serving the criminal period for at least the last 9 (nine) months counted before 2/3 (two thirds) of the criminal period;
- c. Have followed the coaching program properly, diligently, and enthusiastically; And
- d. Communities can accept prisoner coaching activity programs.

In addition to fulfilling the requirements set out in Article 82, convicts must also complete certain required documents in accordance with what is stated in Article 83 of the Regulation of the Minister of Law and Human Rights Number 7 of 2022 concerning the Second Amendment to the Regulation of the Minister of Law and Human Rights Number 3 of 2020. 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave before release, and Conditional Leave as follows:

#### Article 83

- (1) Conditions for granting conditional release as referred to in Article 82 are proven by the following documents:
  - a. a copy of the excerpt of the judge's decision and the minutes of the implementation of the court's decision;
  - b. report on the development of development in accordance with the Prisoner development evaluation system signed by the Head of Lapas;
  - c. social research reports made by social advisors who are known by the Head of the Bapas;
  - d. letter of notification to the District Attorney concerning the proposed plan for the granting of parole to the correctional convict concerned;
  - e. copy of register F from the Head of Lapas;
  - f. copy of the change list from the Head of Correctional Institution
  - g. a statement letter from the convict that he will not commit any unlawful act; And
  - h. a letter of guarantee of ability from the family, guardian, Social Institution, government agency, tourism agency, or a foundation that is known by the village head, village head, or other names stating that:
    - 1. Convicts will not run away and/or will not commit acts that violate the law; And
    - 2. assist in guiding and supervising convicts while participating in the parole program.
- (2) In the event that the notification as referred to in paragraph (1) letter d does not receive a response from the district attorney no later than 12 (twelve) days from the date the notification was sent, parole will still be granted.
- (3) In addition to fulfilling the requirements referred to in paragraph (1), foreign national convicts must also complete the following documents:
  - a. the guarantee letter does not run away and will comply with the specified requirements of:
    - 1. embassy/consular; And
    - 2. The family, person or corporation that is responsible for the whereabouts and activities of the convict while in Indonesian territory;
  - b. a statement letter from the Director General of Immigration or a designated immigration official stating that the person concerned is exempt from the obligation to have a residence permit; And
  - c. certificate not registered in *red notice* and other organized transnational crime networks from the secretariat of *the National Central Bureau - Interpol Indonesia*.
- (4) The certificate as referred to in paragraph (3) letter b is submitted by the Director General to the Director General of Immigration.
- (5) The Director General of Immigration submits the statement as referred to in paragraph (4) no later than 12 (twelve) days from the date the application is received.

## **B. ADDITIONAL REQUIREMENTS FOR Terrorist Convicts**

Apart from having to fulfill the requirements listed in Article 82 of the Regulation of the Minister of Law and Human Rights Number 3 of 2018 convicts of criminal acts of terrorism must also fulfill the requirements contained in Article 84 of the Regulation of the Minister of Law and Human Rights as follows:

### Article 84

The granting of conditional release to convicts who commit acts of terrorism apart from having to fulfill the requirements referred to in Article 82, must also fulfill the following requirements:

- a. Has served at least 2/3 (two thirds) of the criminal period, provided that 2/3 (two thirds) of the criminal period is at least 9 (nine) months;
- b. Has undergone assimilation of at least 1/2 (one half) of the remaining sentence that must be served; and
- c. Has shown awareness and remorse for the mistakes that led to being sentenced and made a pledge:
  1. allegiance to the Unitary State of the Republic of Indonesia in writing for convicts who are Indonesian citizens; or
  2. will not repeat acts of criminal acts of terrorism in writing for convicts of foreign nationality.

In addition to Article 84, convicts of terrorism offenses must also obtain a deradicalization program statement as stated in Article 88 paragraph (1) of the Minister of Law and Human Rights Regulation No. 3 of 2018 which reads as follows:

### Article 88

(1) In addition to attaching the documents referred to in Article 87 paragraph (1), convicts convicted of committing a crime of terrorism must also attach a certificate of having participated in the deradicalization program from the head of the prison and/or the head of the national counter-terrorism agency.

After the promulgation of Law No. 22 of 2022 concerning correctional facilities, article 84 letter b is no longer enforced because it conflicts with article 10 paragraph (3).

## **C. ADDITIONAL REQUIREMENTS FOR NARCOTIC CRIMINAL DEAMINERS AND NARCOTIC PRECURSORS AND PSYCHOTROPICS.**

Apart from having to fulfill the requirements listed in Article 82 of the Regulation of the Minister of Law and Human Rights Number 3 of 2018 on the criminal act of Narcotics and Narcotics Precursors and Psychotropics, they must also fulfill the requirements contained in Article 85 of the Regulation of the Minister of Law and Human Rights as follows:

### Article 85

- a. has served at least 2/3 (two thirds) of the criminal period, provided that 2/3 (two thirds) of the criminal period is at least 9 (nine) months, and.
- b. has undergone assimilation of at least 1/2 (one half) of the remaining sentence that must be served.

After the promulgation of Law No. 22 of 2022 concerning correctional facilities, article 85 letter b is no longer enforced because it conflicts with article 10 paragraph (3).

## **D. ADDITIONAL REQUIREMENTS FOR CRIMINAL CORRUPTION CONDITIONERS.**

Apart from having to fulfill the requirements listed in Article 82 of the Regulation of the Minister of Law and Human Rights Number 3 of 2018 convicts of the crime of Narcotics and Narcotics Precursors and Psychotropics must also fulfill the requirements contained in Article 86 of the Regulation of the Minister of Law and Human Rights as follows:

### Article 86

- a. has served at least 2/3 (two thirds) of the criminal period, provided that 2/3 (two thirds) of the criminal period is at least 9 (nine) months, and
- b. has undergone assimilation of at least 1/2 (one half) of the remaining sentence that must be served.

After the promulgation of Law No. 22 of 2022 concerning correctional facilities, article 86 letter b is no longer enforced because it conflicts with article 10 paragraph (3).

## **E. MECHANISM FOR PROPOSAL GRANTING OF CONDITIONAL RELEASE**

The mechanism for proposing conditional release has been regulated by the Decree of the Director General of Corrections of the Ministry of Law and Human Rights of the Republic of Indonesia Number: PAS-26.OT.02.02 of 2020 as follows:

### 1. General Category Convicts (Non PP 28 / PP 99) and PP 28 Year 2006 Category Convicts.

#### a. Correctional Institution.

##### 1) Proposal.

- a) Lapas officials record prisoners who will be proposed for parole.
- b) Fulfillment of conditions for granting parole and completeness of documents begins after 7 (seven) days the convict is in prison:
- c) Completeness of documents must be fulfilled no later than 1/2 (one half) of the criminal term since the convict is in prison.
- d) TPP Lapas recommends a conditional release proposal to the head of the prison based on data from convicts who meet the requirements.
- e) If the Head of Lapas approves the proposal based on the TPP Lapas recommendation, then the Head of Lapas submits the proposal to the Director General of Corrections with a copy to the Head of the Regional Office.
- f) The assimilation proposal file is uploaded to the Correctional Information System via the SDP Integration feature.
- g) If there is a request for improvement of the assimilation proposal from the Director General of Corrections. Then the task of carrying out repairs within a period of 3 (three) days from the time the return of the Assimilation proposal is received.
- h) The results of the revision of the assimilation grant proposal are submitted again by the Head of Correctional Institutions to the Director General of Corrections for approval with a copy to the Head of the Regional Office.

##### 2) Completion.

- a) The officer prints a copy of the assimilation decision that has received authorization from the Director General of Corrections 3 (three) days before the implementation date.

- b) The officer checks a copy of the related assimilation decision.
- c) If there is an error in the copy of the assimilation decision, it is submitted to the Director General of Corrections.

b. Division of Corrections Regional Office of the Ministry of Law and Human Rights.

1) Proposal.

- a) The officer makes a proposal for granting assimilation within a maximum period of 2 (two) days from the date of the assimilation proposal to the Head of the Regional Office.
- b) The officer submits the results of the verification of the assimilation proposal to the Head of the Regional Office.
- c) The Head of the Regional Office submits the results of the verification of the assimilation proposal to the Director General of Corrections.

2) Completion.

- a) The officer prints a copy of the assimilation decision that has received authorization from the Director General of Corrections.
- b) The officer examines a copy of the assimilation decision.
- c) If there is an error in the copy of the assimilation decision, it is submitted to the Director General of Corrections.

c. Directorate General of Corrections.

- a) Officers verify the assimilation grant proposal within a maximum period of 3 (three) days from the date the assimilation grant proposal was received from the Head of Correctional Institution.
- b) Based on the results of the verification, if there is good, then the assimilation proposal is returned to the Head of Lapas for improvement with a copy to the Head of the Regional Office.
- c) Regarding the results of verification of the correct proposal, the Director General of Corrections on behalf of the Minister shall issue a decision on granting assimilation.
- d) Officers based on the determination of the assimilation decision from the Director General of Corrections and a copy to the Head of the Regional Office.

2. Convict Category PP 99 of 2012

a. Correctional Institution.

1) Proposal.

- a) Correctional Officers record data on prisoners who will be proposed for parole.
- b) Fulfillment of conditions for granting parole and completeness of documents begins after 7 (seven) days the convict is in prison:
- c) Completeness of documents must be fulfilled no later than 1/2 (one half) of the criminal term since the convict is in prison.
- d) TPP Lapas recommends a conditional release proposal to the head of the prison based on data from convicts who meet the requirements.
- e) If the Head of Lapas approves the proposal based on the TPP Lapas recommendation, then the Head of Lapas submits the proposal to the Director General of Corrections with a copy to the Head of the Regional Office.
- f) The assimilation proposal file is uploaded to the Correctional Information System via the SDP Integration feature.
- g) If there is a request for improvement of the assimilation proposal from the Director General of Corrections. Then the task of carrying out repairs within a period of 3 (three) days from the time the return of the Assimilation proposal is received.

- h) The results of the revision of the assimilation grant proposal are submitted again by the Head of Correctional Institutions to the Director General of Corrections for approval with a copy to the Head of the Regional Office.

2) Completion.

- a) The officer prints a copy of the assimilation decision that has received authorization from the Director General of Corrections 3 (three) days before the implementation date.
- b) The officer examines a copy of the parole decision accompanied by the prisoner's parole book (veerlop book);
- c) If there is an error in the copy of the assimilation decision, it is submitted to the Director General of Corrections.

b. Division of Corrections Regional Office of the Ministry of Law and Human Rights.

1) Proposal.

- a) The officer makes a proposal for granting assimilation within a maximum period of 3 (three) days from the date of the assimilation proposal to the Head of the Regional Office.
- b) The officer submits the results of the verification of the assimilation proposal to the Head of the Regional Office.
- c) The Head of the Regional Office submits the results of the verification of the assimilation proposal to the Director General of Corrections.

2) Completion.

- a) The officer prints a copy of the assimilation decision that has received authorization from the Director General of Corrections.
- b) The officer examines a copy of the decision on parole accompanied by the convict's parole book (veerlop book) which has received authorization from the Director General of Corrections.
- c) If there is an error in the copy of the assimilation decision, it is submitted to the Director General of Corrections.

c. Directorate General of Corrections.

- a) Officers verify the assimilation grant proposal within a maximum period of 3 (three) days from the date the assimilation grant proposal was received from the Head of Correctional Institution.
- b) Based on the results of the verification, if there is good, then the assimilation proposal is returned to the Head of Lapas for improvement with a copy to the Head of the Regional Office.
- c) The central TPP provides recommendations for parole proposals to the Director General of Corrections.
- d) The Director General of Corrections requests a recommendation from the relevant agency (the maximum period is 12 (twelve) working days from the date it is submitted).
- e) The Director General of Corrections sends the verification results to the Minister to obtain approval for a parole decision.
- f) In the event that the Minister gives the approval as intended, the Director General of Corrections on behalf of the Minister shall make a decision on conditional release.
- g) Officers based on the stipulation of a parole decision from the Director General of Corrections authorize the UPT of Corrections and a copy to the Head of the Regional Office.





Figure 1. Conditional Release Flow

## CONCLUSION

The implementation of parole for convicts can be divided into 2 categories, namely, parole for general crimes and parole for certain crimes. Certain categories of parole apply to convicts who are subject to government regulation Number 99 of 2012, such as convicts convicted of crimes involving narcotics and psychotropics who are sentenced to more than 5 years, terrorism, corruption, crimes against national security, human rights crimes and other transnational organized crimes. The requirements that must be fulfilled by convicts for general crimes or certain crimes only lie in the additional requirements for convicts for certain crimes. The mechanism for proposing parole, both from the prison level and up to the Directorate General of Corrections, has been well integrated, making it easier for officers to input or enter prisoner data. The entire process of data collection and proposing convicts who will carry out parole has complied with the applicable operational standards and has also met the requirements mandated by the applicable laws and regulations.

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