



## SCHEDULE A

### Remedies under the Royal Prerogative of Mercy (RPM)

#### Conditional Pardon – prior to eligibility, or due to ineligibility, under the *Criminal Records Act (CRA)*

A conditional pardon allows an individual, who is not yet eligible or permanently ineligible for a record suspension under the CRA, to have their criminal record kept separate and apart.

- Criteria*
- There is evidence of good conduct; and
  - there is substantial evidence of undue hardship, which includes suffering of a mental, physical and/or financial nature, out of proportion to the nature of the offence(s) and more severe than for other individuals in similar situations.

(Note that a conditional pardon under the RPM has no effect on a prohibition order)

#### Relief from Prohibitions (weapons / firearms / driving, etc.)

A relief from a prohibition is the removal or the alteration of a prohibition, imposed by the court as a result of a conviction.

- Criteria*
- There is substantial evidence that the prohibition is causing undue hardship to the applicant; and
  - altering or removing the prohibition would not place the community at risk of the applicant's re-offending.

#### Remission of Fine, Forfeiture, Estreated Bails and Pecuniary Penalties

A remission of a fine, a forfeiture, an estreated bail or a pecuniary penalty, such as compensation/restitution amounts to the erasing of all, or part of, the penalty imposed by the court.

- Criteria*
- There is substantial evidence of undue hardship, due to circumstances or factors unknown to the court that imposed the sanction, or which occurred subsequent to the imposition of the sanction by the court; and
  - the grant of a remission will not result in hardship to another person.

#### Remission of Sentence (probation / incarceration / conditional release)

A remission of sentence amounts to the erasing of all, or part of, a sentence imposed by the court.

- Criteria*
- There exists evidence of an error in law, a substantial inequity (such as a change in legislation which had unintended and unanticipated consequences for a person convicted and sentenced); or
  - there is evidence of undue hardship which would be out of proportion to the nature and seriousness of the offence and more severe than for other individuals in similar situations.

## Conditional Pardon - Prior to eligibility under the *Corrections and Conditional Release Act* (CCRA)

A conditional pardon, prior to eligibility under the CCRA, is the release of an inmate from incarceration into the community, under supervision and subject to conditions, until the expiration of the sentence imposed by the court.

### *Criteria*

- The inmate must be ineligible for any other form of release under the CCRA;
- the release will not put the community at risk of the offender's re-offending; and
- there is substantial evidence of excessive inequity, substantial injustice or undue hardship which would be out of proportion to the nature and seriousness of the offence and the resulting consequences, and more severe than for other individuals in similar situations.

## Respite

Respite is the interruption of the execution of a sentence.

### *Criteria*

- There is substantial evidence that failure to grant such an act of clemency would result in undue hardship, or create an inequity; and
- the granting of a respite should not place the community at risk of the offender's re-offending.

## Free Pardon

A free pardon is an absolute, unconditional pardon. A person who is granted a free pardon is deemed to have never committed the offence. Any consequence resulting from the conviction, such as fines, prohibitions or forfeitures will be cancelled upon the grant of a free pardon. In addition, any record of the conviction will be erased from the police and court records, and from any other official data banks.

A free pardon may be a formal recognition that a person was erroneously convicted of an offence. It may also be granted in exceptional cases where considerations of justice, humanity and compassion warrant the granting of a pardon that is absolute and free of conditions.

### *Criteria:*

- New evidence to prove the innocence of the convicted person, or evidence of the existence of exceptional justice, humanitarian, and compassionate considerations warranting the granting of an unconditional pardon.
- As a general convention, applicants for a free pardon will have exhausted all other appeal and review mechanisms under the *Criminal Code of Canada* (CCC) or other pertinent legislation, although this is not a legal requirement and a remedy under the RPM may be the only appropriate means of alleviating ongoing hardship.

## Remedy under the *Corrections and Conditional Release Act (CCRA)*

### Cancellation or variation of a driving prohibition

An applicant may apply to the Parole Board of Canada (PBC) under section 109 of the CCRA for the cancellation or variation of a portion of a driving prohibition order made under section 259 of the *Criminal Code*.

An applicant is eligible to apply for relief from a driving prohibition after a period of:

- 10 years after the commencement of the order, in the case of a prohibition for life; or
- 5 years after the commencement of the order, in the case of a prohibition for more than five years but less than life.

(If an applicant does not meet this eligibility, they must apply for clemency through the RPM – see page 1)

#### *Criteria*

- There is substantial evidence that the prohibition is causing undue hardship out of proportion to the nature and the seriousness of the offence and more severe than for other individuals in similar situations;
- there exist no other remedies, remedies are not lawfully available in a particular case or recourse to them would result in greater hardship; and
- there is substantial evidence that altering or removing the prohibition order would not place the community at risk.