

RULES AND REGULATIONS IMPLEMENTING PROCLAMATION NO. 347, DATED MARCH 25, 1994, AND PROCLAMATION NO. 348, DATED MARCH 25, 1994, AS AMENDED BY PROCLAMATION NO. 377, DATED MAY 10, ...

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WHEREAS, pursuant to the Government's Comprehensive Peace Process, the following Proclamations were issued by the President with the concurrence of Congress:

Proclamation No. 347, Granting Amnesty to Rebels, Insurgents, and All Other Persons Who Have or May Have Committed Crimes Against Public Order, Other Crimes Committed in Furtherance of Political Ends, and Violations of the Articles of War, and Creating a National Amnesty Commission dated March 25, 1994;

Proclamation No. 348, Granting Amnesty to Certain Personnel of the Armed Forces of the Philippines and Philippine National Police Who Have or May Have Committed Certain Acts or Omissions Punishable Under the Revised Penal Code, Articles of War or Other Special Laws, Committed in Furtherance of, Incident to or in Connection With Counter-Insurgency Operations, dated March 25, 1994, as amended by Proclamation No. 377 dated May 10, 1994;

WHEREAS, the National Amnesty Commission has been tasked with the implementation of the above mentioned Proclamations under Section 4 of Proclamation No. 347; and

WHEREAS, there is a need to issue and promulgate the necessary rules and regulations implementing Proclamation No. 347 as well as Proclamation No. 348, as amended by Proclamation No. 377, to provide clear guidelines to all concerned.

NOW, THEREFORE, The National Amnesty Commission, hereby promulgates these Rules and Regulations as follows:

Rule I

Preliminary Provisions

SECTION 1. Declaration of Policy — In consonance with the Government's program of reconciliation and reintegration of rebels/insurgents into the mainstream of society, and to enhance and hasten the peace process, the National Amnesty Commission shall afford to all former rebels/insurgents and agents of the State the maximum opportunity to avail of amnesty in the most judicious, expeditious, and convenient manner possible.

SECTION 2. Interpretation — The following shall apply in the interpretation of these Rules:

- a. Commonality — Unless otherwise specified, these Rules shall apply to both Proclamation No. 347 and Proclamation No. 348, as amended by Proclamation No. 377.
- b. Liberality — These Rules shall be interpreted liberally in favor of the Applicant for Amnesty.
- c. Technical Rules Not Binding — Except in a suppletory manner, the provisions of the Revised Rules of Court shall not be applied to the proceedings before the Local Amnesty Board and National Amnesty Commission.

SECTION 3. Definition of Terms — For purposes of these Rules, the following definitions shall apply:

- a. AFP personnel A member or former member of the Armed Forces of the Philippines including a former member of the Philippine Constabulary.
- b. Applicant A person who files an application for Amnesty under these Rules.
- c. Extra-legal execution The intentional killing, including "salvaging", of any person suspected, charged, and/or convicted of any crime or offense, as a form of retribution or punishment of the victim or as an example to others.
- d. In furtherance of, incident to, or in connection with counter-insurgency operations shall include but not be limited to acts or omissions performed in the course of a military or police operation against any of the rebels/insurgents or as a consequence of such operation.
- e. In pursuit of a political belief shall include but not be limited to acts or omissions performed or undertaken as part of a plan, program of action or strategy decided by the rebel leadership to overthrow and replace the National Government, any of its political subdivisions, or duly constituted authority, with or without the use of arms.
- f. Massacre The intentional killing of three or more unarmed or defenseless persons in a single incident.
- g. PNP personnel A member of the Philippine National Police, including a former member of the Philippine Constabulary or the Integrated National Police.
- h. Rebel or insurgent A person who performs any of the crimes/acts covered by Proclamation No. 347, and/or one who supports the commission of such crimes/acts.
- i. Rules The rules and regulations promulgate hereunder.
- j. Torture The infliction of severe pain or suffering whether physical or psychological upon any person for the purpose of gathering information, sadistic pleasure, punishment, or any other unlawful purpose whether or not the act results in death or physical injuries.

Rule II

Organization

A

The National Amnesty Commission

SECTION 1. Composition — The National Amnesty Commission (NAC) shall be composed of seven (7) members: a Chairman and three (3) regular members to be appointed by the President and the Secretary of Justice, the Secretary of National Defense, and the Secretary of the Interior and Local Government, as ex officio members.

SECTION 2. Powers and Functions — The NAC shall exercise the following powers and functions:

- a. To receive and process applications for amnesty and determine whether the Applicants are entitled to amnesty under Proclamation No. 347 and Proclamation No. 348, as amended;
- b. Administer oaths, summon witnesses and require the production of documents by subpoena-duces tecum,
- c. Promulgate rules and regulations subject to the approval of the President;
- d. Call on any Government office, body, agency, instrumentality, council and commission to render assistance in the efficient implementation of its functions;

- e. Constitute Local Amnesty Boards in such provinces, cities, and municipalities as may be necessary; and
- f. Perform such other functions necessary for the proper implementation of this Proclamation as may be authorized by the President.

SECTION 3. Meetings — The Chairman shall preside over all the meetings of the NAC. Decisions of the NAC shall be arrived at by majority vote in a meeting where there is a quorum consisting of at least four (4) members.

SECTION 4. Staff Support — The NAC shall have staff and service offices headed by an Executive Director, including but not limited to the following:

- a. Secretariat — to provide technical support;
- b. Research and Documentation — to assist in the verification and investigation of recommendations for the grant or denial of amnesty, and the maintenance of the records;
- c. Legal — to assist in the processing and deliberation on the recommendations for the grant or denial of amnesty;
- d. Operations — to assist in the coordination of and communication with the Local Amnesty Boards, various government and non-government agencies; and
- e. Finance and Administration — to provide administrative, personnel and financial support services.

SECTION 5. Place of Office — The NAC shall hold office in Metro Manila, or in such places as it may decide.

B

The Local Amnesty Board

SECTION 6. Composition — The NAC shall constitute and designate the membership of the Local Amnesty Boards (LAB) in Metro Manila and in such province, city, or municipality as may be necessary. Unless otherwise directed by the NAC, the LAB shall be composed of:

- a. A representative of the Integrated Bar of the Philippines (IBP) as Chairman;
- b. The Provincial or City Prosecutor, or his representative who shall act as the Chief Executive Officer;
- c. The Provincial Governor, City or Municipal Mayor, or his representative, as the case may be;
- d. The Provincial Director of the PNP or his representative;
- e. A private citizen of known probity and integrity.

SECTION 7. Powers and Functions — The LAB shall have the following powers and functions:

- a. Receive and process applications for amnesty and oppositions thereto;
- b. Conduct the pertinent proceedings set forth in these Rules; c. Recommend the grant or denial of applications filed in accordance with these Rules;
- d. Perform such other functions as may be assigned by the NAC.

SECTION 8. Meetings — The Chairman shall preside over the meetings of the LAB. Recommendations of the LAB to NAC for the grant or denial of amnesty shall be arrived at by majority vote in a meeting where there is a quorum consisting of a majority of its members. Appropriate honoraria for meetings attended shall be provided as may be authorized by law.

Rule III

Coverage

SECTION 1. Persons Who May Apply — The following persons may apply for amnesty, whether or not they have been investigated, detained, charged, convicted, or have served sentence or escaped imprisonment, or are serving sentence:

- a. Under Proclamation No. 347 — Any and all rebels, insurgents, or persons who have or may have committed acts or omissions as defined in Section 2(a) hereunder.
- b. Under Proclamation No. 348, amended — Any member of the AFP or PNP who have or may have committed acts or omission as defined in Section 2(b) hereunder.

SECTION 2. Crimes/Acts Covered — The following acts or omissions may be subject to amnesty, whether or not punishable under the Revised Penal Code, the Articles of War, or special laws.

- a. Under Proclamation No. 347 — Crimes committed in pursuit of a political belief on or before April 30, 1994, including, but not limited to, the following:

- Rebellion or insurrection
- Coup d'etat
- Conspiracy and proposal to commit rebellion, insurrection, or coup d'etat
- Disloyalty of public officers or employees
- Inciting to rebellion or insurrection
- Sedition
- Conspiracy to commit sedition
- Inciting to sedition
- Illegal assembly
- Illegal association
- Direct assault
- Indirect assault
- Resistance and disobedience to a person in authority or the agents of such person
- Tumults and other disturbances of public order
- Unlawful use of means of publication and unlawful utterances
- Alarms and scandals
- Illegal possession of firearms, ammunition, or explosives committed in furtherance of, incident to, or in connection with the crimes of rebellion or insurrection
- Violation of the following Articles of War:
 - AW 59 (desertion),
 - AW 62 (absence without leave),
 - AW 67 (mutiny or sedition).

AW 68 (failure to suppress mutiny or sedition)
AW 94 (various crimes),
AW 96 (conduct unbecoming an officer and a gentleman),
AW 97 (general article),

b. Under Proclamation No. 348, as amended Crimes/acts committed in furtherance of, incident to, or in connection with counter-insurgency operations on or before March 25, 1994, including but not limited to the following:

- Willful killing
- Willful infliction of physical injuries
- Illegal detention
- Arbitrary detention
- Coercion
- Threats
- Illegal possession of firearms, ammunition, or explosives
- Violation of the following Articles of War:

AW 94 (various crimes)
AW 96 (conduct unbecoming of an officer and a gentleman),
AW 97 (general article)

SECTION 3. Crimes/Acts Not Covered — Amnesty shall not be extended for the crimes committed for personal ends, and the crimes enumerated hereunder

a. Under Proclamation No. 347 —

- i. Rape
- ii. Other Crimes Against Chastity

b. Under Proclamation No. 348, as amended — Serious human rights violations, including but not limited to:

- i. Torture
- ii. Extra-legal execution
- iii. Arson
- iv. Massacre
- v. Rape
- vi. Other crimes against chastity
- vii. Robbery of any form

RULE IV

A

Procedure in the Local Amnesty Board

SECTION 1. Notice to the Public — Upon its constitution, the LAB shall, through the most practical and convenient means available, notify the public when, and where to file the applications for, and/or oppositions to, the grant of amnesty.

SECTION 2. Filing of Applications —

(a) When to File Applications must be filed personally or through a representative on or before November 29, 1994.

b. Where to File Any person desiring to avail of amnesty shall, at his option file his application, with the LAB closest to his residence, or place of operations/assignment, or with the Metro Manila LAB. Except as otherwise provided, applications shall be filed with the Provincial/City Prosecutor as Chief Executive Officer of the LAB.

c. What to File Three copies of the application, subscribed and sworn to before any person authorized to administer oaths, shall be filed in the form prescribed in Annex "A"[*] together with 2" by 2" photographs taken not more than six (6) months before the filing of the application and such documentary evidence as he may feel necessary to support his claims. However, under exigent and justifiable circumstances, applications not in the prescribed form may be received by the LAB provided they contain the essential information required in Annex "A".

One copy, indicating the date and time of receipt, printed name and signature of the receiving officer, the LAB he represents, and the date of the conference under Section 6 hereof, shall be retained by the Applicant.

d. Detained/Imprisoned Applicant — An applicant who is detained or imprisoned may file his application at the place of detention or imprisonment. For this purpose, the custodial officer or jail warden shall assist the Applicant and transmit the application to the nearest LAB or the NAC within twenty-four (24) hours from its submission.

e. Where There is a Pending Criminal Case — An Applicant who is undergoing trial or preliminary investigation may file a motion for suspension of the proceedings, copy furnished the private complainant and the public/private prosecutor.

SECTION 3. Confidentiality of Records and Proceedings — The application, the testimonies of an accused-Applicant and his witnesses, and any evidence presented in the course of proceedings under these Rules, which are not otherwise available to the prosecution, shall be treated as confidential information and shall not be used as evidence in any other proceeding where the amnesty is not in issue, except for the offense of perjury committed in so testifying.

SECTION 4. Verification — (a) It shall be the responsibility of the LAB to initially verify the claims made by an Applicant. Within twenty-four (24) hours from receipt of the Application, the LAB shall request the Department of National Defense-Armed Forces of the Philippines (DND-AFP), Department of the Interior and Local Government-Philippine National Police (DILG-PNP), Department of Justice, or other competent government offices or agencies to verify such claims. The verification shall also determine whether or not the application is being opposed by a private offended party.

b. Applications filed by AFP or PNP personnel shall be forwarded to the DND, DILG, or other competent government agencies for verification.

c. Applications of persons who have pending criminal complaints/cases shall be referred to the Provincial/City Prosecutor concerned for verification.

d. The verification of the claims made by the Applicant shall be completed and returned to the LAB within ten (10) days from the date of filing of the application; provided however, that a report of incomplete or negative verification, as the case may be, shall be made within the same period.

SECTION 5. Opposition — (a) Any interested party may oppose the application or prospective application by filing a sworn statement setting the grounds therefor and accompanied by such documentary evidence in support

thereof. Such opposition may be filed with any LAB or NAC at any time after the notice to the public required under Section 1 hereof, but before the NAC decides on the Application.

b. An Opposition may be filed on any of the following grounds:

- The Applicant is not among those who may apply under Section 1, Rule III.
- The act or omission for which amnesty is applied for is not included among the crimes/acts covered under Section 2, Rule III.
- The act or omission for which amnesty is applied for is specifically excluded from coverage under Section 3, Rule III.

SECTION 6. Conference —

(a) Purpose The LAB shall hold a conference where the applicant shall personally appear and reaffirm the contents of his applications, and for the purpose of receiving additional evidence or propounding clarificatory questions to the Applicant or his witnesses. If necessary, a separate conference may be held for the oppositor and his witnesses.

b. Schedule Upon receipt of the application by the LAB, the conference shall be set not earlier than ten (10) days, nor later than thirty (30) days from the filing of the application as indicated in the Applicant's copy; Provided, that no conference shall last more than three (3) successive working days.

c. Nature The conference shall be summary in nature and shall be conducted efficiently and expeditiously. Cross-examination of witnesses by counsel shall not be allowed. However, any party may request the LAB to ask clarificatory questions on his behalf.

d. Evidence The parties may submit additional; evidence which shall not be limited to any court records or records of preliminary investigation. Such evidence may be documentary or testimonial in affidavit form.

e. Failure to Appear Should the Applicant fail to appear at the conference where his appearance is required, the Safe Conduct Pass provided for in Section 2, Rule VI shall be automatically revoked and action on his application shall be suspended until such time that he personally appears.

f. When Not Necessary The conference may, at the discretion of the LAB, be dispensed with, provided that the following requisites concur:

- The Applicant personally appeared before the LAB to file his application under oath.
- No opposition to his application has been filed.
- Based on the results of the verification, he clearly appears to be qualified for amnesty.

SECTION 7. Evaluation and Recommendation — (a) Within fifteen (15) days from the last conference date, the LAB shall evaluate the application and write its recommendation in the form prescribed in Annex "B"[*], which shall contain, among others:

- The name and personal circumstances of the Applicant;
- The crimes for which amnesty is applied for;
- The recommendation to grant or deny the application,
- An index of the documents and testimonies presented before the LAB, including the results of the verification.

b. The recommendation, together with the application and all of the records of the case, shall forthwith be transmitted to the NAC within twenty-four (24) hours. The Applicant and the oppositor, if any, shall be notified of the fact of transmission. However, the recommendation itself shall remain confidential until the NAC promulgates its Decision.

c. Records to be Transmitted The records of the case shall consist of the Amnesty Evaluation Report, and the following:

- Application
- Verification documents
- Opposition, if any
- Testimonies/Affidavits
- Other documents submitted to the LAB in support of/opposition to the application

B

Procedure in the National Amnesty Commission

SECTION 8. Uniformity of Procedure for Filing of Applications — Applications filed directly with the NAC may be referred for processing to the appropriate LAB.

SECTION 9. Decision by NAC —

- a. The NAC shall decide whether or not amnesty shall be granted to the Applicant within thirty (30) days from receipt of the recommendation and records from the LAB.
- b. Should the NAC find it necessary, it may, in its discretion, direct that further verification be conducted and/or additional evidence submitted.
- c. A copy of the decision shall immediately be furnished the Applicant and the Oppositor, if any.

SECTION 10. Motion for Reconsideration — (a) Only one (1) motion for reconsideration in any form may be filed with the NAC within fifteen (15) days from receipt of the decision, otherwise the same shall become final and executory. The NAC shall resolve the said motion within ten (10) days from receipt thereof, unless it sets the same for hearing, in which case it shall resolve the case within ten (10) days from the last hearing date.

b. A motion for reconsideration may be filed with the NAC based only on the following grounds:

- The decision is not supported by substantial evidence;
- A party has been unjustly deprived of the opportunity to present evidence.
- Fraud or serious irregularities.
- Newly discovered evidence sufficient to reverse the decision.

SECTION 11. Appeal — The decision of the NAC shall be final and executory unless appealed with the Court of Appeals within 15 days from the receipt thereof.

RULE V

Effects of Amnesty

SECTION 1. Extinction of Criminal Liability — The grant of amnesty shall extinguish any criminal liability for the

acts/crimes subject of the grant.

SECTION 2. Restoration of Civil and Political Rights — The grant of amnesty shall restore the civil and political rights of the grantee which were lost or suspended by virtue of criminal conviction.

SECTION 3. Civil Liability — Amnesty shall not affect the grantee's civil liability for injuries or damages caused to private persons. The said private persons may file an independent civil action against the grantee in the regular courts.

SECTION 4. Provisions for Military or Police Personnel — With respect to Applicants who are AFP or PNP personnel, the following provisions shall also apply:

a. Right to Retirement and Separation Benefits The amnesty shall reinstate the right of AFP and PNP personnel to retirement and separation benefits, if so qualified under existing laws, rules and regulations at the time of the commission of the acts for which amnesty is extended unless they have forfeited such retirement and separation benefits for reasons other than the acts covered by the amnesty.

b. Reintegration or Reinstatement Amnesty shall not ipso facto result in the integration or reinstatement into service of former AFP and PNP personnel. Reintegration or reinstatement into the service shall be governed by existing rules and regulations.

RULE VI

Miscellaneous

SECTION 1. Firearms — The surrender of firearms shall not be a condition for the filing of an Application for, or the grant of amnesty.

SECTION 2. Safe Conduct — Where an applicant is not under detention or not serving sentence, whether he has been convicted or not, the Application form retained by the Applicant in accordance with Rule IV, Section 2(c) hereof, bearing the official stamp of the LAB or NAC, shall be considered a Safe Conduct Pass and shall entitle the holder thereof to privileges and immunities enjoyed by holders of the same issued pursuant to existing rules and regulations. Except as provided in Section 6, Rule IV, the said privileges and immunities shall remain in effect until otherwise revoked for just cause, or until twenty (20) calendar days after the Application is rejected, whichever comes first.

SECTION 3. Effectivity — These Rules shall take effect immediately upon publication in a newspaper of general circulation.

Adopted: 10 Aug. 1994

(SGD.) MANUEL C. HERRERA
Chairman

(SGD.) LILIA B. DE LIMA
Commissioner

(SGD.) ALFREDO F. TADIAR
Commissioner

(SGD.) RAMON J. LIWAG
Commissioner

(SGD.) RENATO S. DE VILLA
Secretary of National Defense

(SGD.) RAFAEL M. ALUNAN III
Secretary of the Interior and Local Government

[*] Not included here

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