

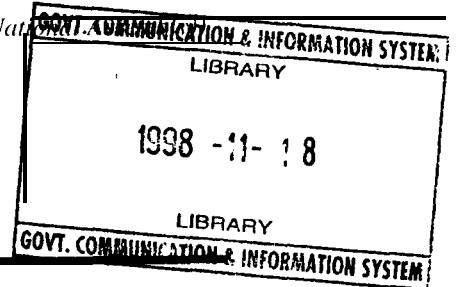
REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
CORRECTIONAL SERVICES
BILL**

[B 65 B—98]

(As agreed to by the Portfolio Committee on Correctional Services (National Assembly))

[B 65C—98]



REPUBLIEK VAN SUID-AFRIKA

**PORTEFEULJE KOMITEE-AMENDEMENTE
OP
WETSONTWERP OP
KORREIKTIEWE DIENSTE**

[W 65 B—98]

(Soos goedgekeur deur die Portefeuljekomitee oor Korrektiewe Dienste (Nasionale Vergadering))

[W 65 C—98]

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AMENDMENTS AGREED TO

CORRECTIONAL SERVICES BILL
[B 65 B—98]

CLAUSE I

1. On page 1, in line 48, to omit "88" and to substitute "87".
2. On page 2, in line 13, to omit "104" and to substitute "103".
3. On page 2, in line 18, to omit "106" and to substitute "105".
4. On page 12, in line 24, to omit "75" and to substitute "74".
5. On page 12, in line 26, to omit "77" and to substitute "76".
6. On page 12, in line 32, to omit "55" and to substitute "54".
7. On page 12, in line 35, to omit "109" and to substitute "108".
8. On page 12, in line 37, after "above" to insert:

, or where such official is not available a correctional official specially trained in the conduct of discipline-y hearings of prisoners
9. On page 2, in line 46, to omit "60" and to substitute "59".
10. On page 2, in line 47, to omit "93" and to substitute "92".
11. On page 2, in line 48, to omit "87" and to substitute "M".
12. On page 2, in line 49, to omit "104" and to substitute "103".
13. On page 2, in line 50, to omit "86" and to substitute "85".
14. On page 4, in line 13, to omit "84" and to substitute "83".
15. On page 14, in line 27 to omit "116 and 118" and to substitute "115 and 117".
16. On page 16, in line 14, to omit "59" and to substitute "58".
17. On page 16, in line 16, to omit "113" and to substitute "112".
18. On page 16, in line 19, to omit "95" and to substitute "94".

CLAUSE 3

1. On page 6, in line 42, to omit "upon him or her".

CLAUSE 5

1. On page 8, in line 32, to omit "(2)" and to substitute "(1)(a)"

2. On page 18, alter line 35, to add the following paragraph:
 - (b) It' there is no prison in a district a prisoner may be detained in a police cell but not for a period longer than one month unless a longer period is authorised by the Commissioner.

CLAUSE 21

1. On page 26, in line 42, to omit "94" and to substitute "93".

CLAUSE 27

1. On page 32, in line 3, to omit "urine or other excretion" and to substitute "body tissue or body excretion".
2. On page 32, in line 19, to omit all the words after "(d)" up to and including "Prison" in line 24 and to substitute:

searches contemplated in subsections(1) and (2) must be authorised by the Head of Prison but searches in terms of subsection (2)(b),(c),(d) and (e) must be executed or supervised by a registered nurse, medical officer, or medical practitioner depending on the procedure necessary to effect the search.

CLAUSE 30

1. On page 34, from lines 9 to 11, to omit paragraph "(a)" and to substitute:
 - (a) A prisoner who is segregated in terms of subsection (1)(b) to (f)—
 - (i) must be visited by a correctional official at least once every four hours and by the Head of Prison at least once a day; and
 - (ii) must have his or her health assessed by a registered nurse, psychologist or a medical officer at least once a day.
2. On page 34, after line 14, to omit all the words from "(c)" up to and including "psychologist" in line 16.

CLAUSE 31

1. On page 34, in line 37, to omit "the Head of Prison has".
2. On page 34, in line 38, after "suspicion" to insert "exists".
3. On page 34, in line 38, to omit "the head of Prison may order that a prisoner be restrained by shackles applied to the body" and to substitute:

a correctional official may restrain a prisoner by mechanical restraints as prescribed by regulation
4. On page 34, in line 40, to omit "shackles" and to insert "mechanical restraints except handcuffs or leg-irons".
5. On page 34, in lines 42 and 43, to omit all the words after "(3)(a)" up to and including "days" in line 43 and to substitute:

When a prisoner is in solitary confinement or in segregation and mechanical restraints are to be used, such use of mechanical restraints must be authorised by the Head of Prison and the period may not, subject to the provisions of paragraphs (b) and (c), exceed seven days.

6. On page 34, after line 43, to insert:

(b) Mechanical restraints may only be used for the minimum period necessary and this period may not, subject to the provisions of paragraph (c), exceed seven days.

7. On page 34, in line 44, after “restraints” to insert “except handcuffs or leg-irons”

CLAUSE 33

1. On page 36, in the line 24, after “Prison” to insert “or the Head of Community Corrections”.

CLAUSE 34

1. On page 36, in line 37, after “Prison” to insert “or the Head of Community Corrections”.

CLAUSE 39

1. On page 40, in line 18, after “custody” to insert:

extradited in terms of the Extradition Act, 1962 (Act no. 67 of 1962) and returns to the Republic

2. On page 40, after line 45, to add:

(6) (a) After the Commissioner is satisfied that a prisoner has been released from a prison erroneously, he or she may issue a warrant for the arrest of such a prisoner to be readmitted to prison to serve the rest of his or her sentence.

(b) A warrant issued in terms of subsection (6)(a) maybe executed by any peace officer as defined in section 1 of the Criminal Procedure Act.

CLAUSE 40

1. On page 40, in line 48, after “day” to insert, “and a prisoner may be compelled to do such work”.

2. On page 40, after line 56, to add:

(6) Work performed by a prisoner must be in accordance with the principles contained in section 37(1)(b) and the performance thereof will not constitute an employment relationship with the Department.

CLAUSE 43

1. On page 44, after line 22, to add:

(4) The Commissioner may, in consultation with the Director-General of the Department of Welfare, transfer a sentenced child to a reform school as contemplated in the Child Care Act, 1983 (Act No. 74 of 1983) and from the date of such transfer, the provisions of section 290 of the Criminal Procedure Act, will apply.

CLAUSE 44

1. On page 44, in line 29, to omit “(c) consolidation of family ties;”.
2. On page 44, in line 42, to omit “ 118” and to substitute “ 117”.

CLAUSE 45

1. On page 44, in line 47, to omit “56(3)” and to substitute “55(3)”.

CLAUSE 51

1. On page 46, in line 34, after “276(1)(i)” to insert “276 A(3)(a) (ii),”.
2. On page 46, in line 39, to omit “55” and to substitute “54”.
3. On page 46, in line 40, to omit “74” and to substitute “73”.

CLAUSE 52

1. On page 48, in line 31, to omit “74” and to substitute “73”.
2. On page 48, in line 37, to omit “55” and to substitute “54”.

CLAUSE 54

1. On page 50, in line 4, to omit “ 118” and to substitute “11 7”.

CLAUSE 56

1. On page 50, in line 34, to omit “practitioner” and to substitute “officer”.

CLAUSE 59

1. On page 52, in line 30, to omit “53(1)(a)” and to substitute “52(1)(a)”.

CLAUSE 61

1. On page 52, in line 47, to omit “53(1)(c)” and to substitute “52(1)(a)”.

CLAUSE 62

1. On page 54, in line 3, to omit “53(1)(d)” and to substitute “52(1)(d)”.

CLAUSE 63

1. On page 54, in line I 2, to omit “53 (1)(e)” and to substitute “52(1)(e).”

CLAUSE 64

1. On page 54, in line 20, to omit “53(1)(f)” and to substitute “52(1)(f)”.

CLAUSE 65

1. On page 54, in line 32, to omit “53(1)(h)” and to substitute “52(1)(A)”.

CLAUSE 66

1. On page 54, in line 40, to omit “53(1)(j)” and to substitute “52(1)(j)”.
2. On page 54, in line 50, to omit “71” and to substitute “70”.

CLAUSE 67

1. On page 56, in line 2, to omit “53(1)(k)” and to substitute “52(1)(k)”.
2. On page 56, at line 4, to omit “practitioner” and to substitute “officer”.

CLAUSE 68

1. On page 56, in line 8, to omit “53(1)(p)” and to substitute “52(1)(P)”.

CLAUSE 69

1. On page 56, in line 15, to omit “53(1)(q)” and to substitute “52(1)(4)”.
2. On page 56, in line 20, to omit “53(1)(f)” and to substitute “52(1)(f)”.

CLAUSE 71

1. On page 58, in line 4, to omit “71(1)(c)” and to substitute “52(1)(c)”.

CLAUSE 73

1. On page 58, in line 46, to omit “half of”.

CLAUSE 75

1. On page 62, in line 28, to omit “53” and to substitute “52”.
2. On page 62, in line 34, to omit “53” and to substitute “52”.

3. On page 62, in line 37, to omit “53” and to substitute “52 “.
4. On page 62, at line 36, to omit “parole or day parole” and to substitute “day parole or parole”.
5. On page 64, in line 29, to omit “53” and to substitute “52”.

CLAUSE 77

1. On page 64, in line 54, to omit “76” and to substitute “75”

CLAUSE 78

1. On page 66, in line 10, to omit “74” and to substitute “73”,
2. On page 66, in line 12, to omit “53” and to substitute “52”.
3. On page 66, in line 17, to omit “74” and to substitute “73”.

CLAUSE 80

1. On page 66, in lines 34 and 35, to omit “, or to a person subject to community corrections,”.
2. On page 66, in line 35, to omit “rendered highly meritorious service” and to substitute “acted highly meritoriously”.

CLAUSE 81

1. On page 66, in line 44, after “of the” to insert “approved”.
2. On page 66, in line 49, to omit “76” and to substitute “75”.

CLAUSE 82

1. On page 68, in line 5, to omit “may”.

CLAUSE 84

1. On page 68, from line 52, to omit subsection (3)

CLAUSE 96

1. On page 76, in line 36, after “on” to insert “level of”.

CLAUSE 97

1. On page 78, in line 5, to omit “134” and to substitute “133”.

CLAUSE 102

1. On page 80, in line 32, after “Act,” to insert:
which include mechanical restraints, non-lethal incapacitating devices,
fire-arms and other weapons,

CLAUSE 104

1. On page 82, in line 16, to add “an” after “as”.
2. On page 82, in line 20, to omit “measures” and to substitute “action”.
3. On page 82, in line 20, to omit “punishment” and to substitute “penalties”.
4. On page 82, in line 26, to omit “be entitled to”.

CLAUSE 107

1. On page 82, in line 48, to omit “1 10” and to substitute “ 109”,

CLAUSE 108

1. On page 84, in line 9, to omit “ 107” and to substitute “ 106”.

CLAUSE 110

1. On page 84, in line 37, to omit “105” and to substitute “ 104”,

CLAUSE 112

1. In the Afrikaans text, on page 87, in line 3, to omit “Konsultasie” and to substitute “oorleg”.

CLAUSE 123

1. On page 92, to omit Clause 123 and substitute:

Prohibited publication

123. (1) No person may publish any account of prison life or conditions that may identify a specific prisoner unless the prisoner concerned grants permission for such publication.

(2) (a) No person may without the permission of the Commissioner publish any account of an offence for which a prisoner or person subject to community corrections is serving a sentence.

(b) If however the information that is published forms part of the official court records the permission of the prisoner or the Commissioner is not required.

(3) The Commissioner may refuse such permission only if in his or her opinion the publication may undermine the objective of the implementation of the sentence of imprisonment as specified in section 36 or the objectives of community corrections specified in section 50.

(4) Any person who is not satisfied with the decision of the Commissioner to grant or refuse permission in terms of subsections (2) and (3) may within 10 days after being informed of the decision refer the matter to the Inspecting Judge. The Inspecting Judge must confirm or set aside the decision.

(5) No prisoner or person subject to community corrections may derive profit from, or receive any reward or remuneration directly or indirectly for any published account of an offence for which a prisoner or person subject to community corrections is serving a sentence.

(6) Any prisoner or any other person who contravenes subsections (1), (2) or (5) is guilty of an offence and liable on conviction to a fine or, in default of payment, to imprisonment for a period not exceeding two years or to such imprisonment without the option of a fine or both.

(7) A Court convicting a prisoner or any other person of an offence in terms of this section may declare any reward or remuneration received by or on behalf of such prisoner or person forfeit to the State.

NEW CLAUSE

1. That the following be a new Clause:

Agreements for articles, supplies and services

133. (1) All State departments must, as far as practicable, purchase articles and supplies manufactured by prisoner labour from the Department at fair and reasonable prices as may be determined by the Minister of Finance.

(2) The Commissioner may authorise specific services necessary or expedient and in the public interest or in the interest of any deserving charity to be rendered gratuitously.

CLAUSE 133

1. On page 100, after line 13, to insert:
(x) the permissible mechanical restraints and the manner in which they may be used;
2. On page 100, after line 22, to insert:
(old) the entering into contracts for labour or services of prisoners or the products of their labour or services;
3. On page 100, in line 48, after "particular prison" to insert "or community corrections office" and after "such prison" to insert "or community corrections office".
4. On page 100, in lines 49 and 50, to omit "Portfolio Committee on Correctional Services" and to substitute "relevant parliamentary committees in both Houses dealing with the Department".

NEW CLAUSE

1. That the following be a new Clause:

Transitional provision

135. (1) Any person serving a sentence immediately before the commencement of this Act will be subject to the provisions of the Correctional Services Act, 1959 (Act No. 8 of 1959) relating to his or her placement under community corrections, but the Minister may make such regulations as are necessary to achieve a uniform policy framework to deal with prisoners who were sentenced immediately before the commencement of this Act, and no prisoner may be prejudiced by such regulations.

(2) For the purposes of considering the placement of such person under community corrections the relevant authority provided for in this Act **will** have the power to consider such a placement.

CLAUSE 136

1. On page 102, after line 8, to add:

(3) Different dates maybe fixed by the President by proclamation in the *Gazette* for the repeal of different provisions of the Correctional Services Act, 1959 (Act No. 8 of 1959).