

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain odd numbered pages as the other language is printed on uneven numbered pages.



Government Gazette

REPUBLIC OF SOUTH AFRICA

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THE PRESIDENCY

No. 788

13 March 1992

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 19 of 1992: Mental Health Amendment Act, 1992.



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GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Mental Health Act, 1973, so as to delete certain obsolete definitions; to provide for entering into agreements with other States relating to the detention, reception and treatment of patients and persons from such other States in institutions in the Republic, and their discharge from such institutions; and to exclude the territory of South West Africa from the application of the Act; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 3 March 1992.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 18 of 1973, as amended by section 1 of Act 10 of 1978, section 1 of Act 38 of 1981, section 1 of Act 3 of 1984, section 2 of Act 34 of 1986, section 1 of Act 55 of 1987 and section 6 of Act 51 of 1991

1. Section 1 of the Mental Health Act, 1973 (hereinafter referred to as the principal Act), is hereby amended by the deletion of the definitions of "province" and "Republic".

Substitution of heading to Chapter 5 of Act 18 of 1973

10 2. The following heading is hereby substituted for the heading to Chapter 5 of the principal Act:

"PATIENTS AND PERSONS FROM OTHER STATES"

Substitution of section 42A of Act 18 of 1973, as inserted by section 4 of Act 38 of 1981

15 3. The following section is hereby substituted for section 42A of the principal Act:

"Minister may enter into agreements relating to detention, reception, treatment and discharge of patients and persons from other States"

20 42A. (1) The Minister may, on such conditions as he may deem fit, but subject to the provisions of this Act and any other law, and in consultation with the Minister of Finance, enter into an agreement with any other State providing for—

25 (a) the detention in an institution in the Republic of any person who is charged in such a State of an offence specified in such agreement, for the purposes of examination of and report on the mental condition of such person;

- (b) the continued detention in an institution in the Republic and discharge from such an institution of a person who, after an examination referred to in paragraph (a), is found to be mentally ill;
- 5 (c) the reception and treatment of a patient from such a State in an institution in the Republic and his discharge from such an institution.
- (2) No such agreement or amendment thereof shall be of force or effect—
- 10 (a) until it has been published by the State President by proclamation in the *Gazette*; or
- (b) unless provision is made, by the laws of the other State or by the agreement, for the issue of a warrant by a court or other competent authority or person in that State for the detention or
- 15 reception as referred to in subsection (1).
- (3) Subject to the provisions of subsection (1), the relevant provisions of this Act and of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall apply to any person detained or treated in an institution in the Republic under this section, as if he had been
- 20 referred to such institution in terms of this Act or the Criminal Procedure Act, 1977.”.

Repeal of section 78 of Act 18 of 1973

4. Section 78 of the principal Act is hereby repealed.

Saving

25 5. Notwithstanding the amendment of section 42A of the principal Act by section 3 of this Act, any person from a state which previously formed part of the Republic who is detained in an institution referred to in the principal Act in the Republic on the date of commencement of this Act, shall be dealt with as if this Act had not been passed.

30 Short title and commencement

6. This Act shall be called the Mental Health Amendment Act, 1992, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.