

STATE PRESIDENT' S OFFICE

No. 789.
13 March 1992

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

NO. 20 OF 1992: PREVENTION AND TREATMENT OF DRUG DEPENDENCY ACT, 1992

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

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

ACT

To provide for the establishment of a Drug Advisory Board; the establishment of programmes for the prevention and treatment of drug dependency; the establishment of treatment centres and hostels; the registration of institutions as treatment centres and hostels; the committal of certain persons to and their detention, treatment and training in such treatment centres or registered treatment centres; and incidental matters.

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

Definitions

1. In this Act, unless the context otherwise indicates-

- (i) "Board" means the Drug Advisory Board established under section 2; (xviii)
- (ii) "children's home" means a children's home as defined in section 1 of the Child Care Act, 1983 (Act No. 74 of 1983); (x)
- (iii) "Director-General" or "other senior officer", in relation to any provision of this Act, means the head or any other senior officer of the Department of State administered by the Minister to whom the administration of that provision has been assigned by proclamation issued under section 49; (iii)
- (iv) "drugs" means any medicine or substance prescribed by the Minister after consultation with the Medicines Control Council, established by section 2 of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), and includes alcoholic liquor; (iv)
- (v) "hostel" means a hostel established under section 10 or deemed to be so established; (xxii)
- (vi) "institution", for the purposes of sections 32, 33, 34 and 35, means an institution as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973); (ix)

- (vii) "magistrate", includes an additional magistrate and assistant magistrate; (xi)
- (viii) "management", in relation to any treatment centre, means the superintendent of that treatment centre and the persons mentioned in section 13(2) and, in relation to any hostel, means the person in charge of such hostel, and, in relation to a registered treatment centre or registered hostel, means the persons who have the management and control thereof; (ii)
- (ix) "medical officer" means any medical practitioner in the service of the State; (xiii)
- (x) "medical practitioner" means any person registered as a medical practitioner or intern under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974); (v)
- (xi) "Minister", in relation to any provision of this Act, means the Minister to whom, or the Ministers to whom, acting in consultation with one another, the administration of that provision has been assigned by proclamation issued under section 49; (xiv)
- (xii) "patient" means any person who has under this Act or any other law been committed or admitted or is deemed to have been so committed or admitted to any treatment centre or registered treatment centre, and includes any person who has been released on licence from any treatment centre or registered treatment centre or who has been granted leave of absence therefrom, or who is still under the control or supervision of the management of any treatment centre or registered treatment centre or who is liable to be brought back thereto; (xvi)
- (xiii) "place of safety" means a place of safety as defined in section 1 of the Child Care Act, 1983; (xviii)
- (xiv) "police officer" means any member of a police force established under any law; (xvii)
- (xv) "prescribed" means prescribed by regulation or rule made or prescribed under this Act; (xxv)
- (xvi) "reform school" means a reform school as defined in section 1 of the Child Care Act, 1983; (xxiv)
- (xvii) "registered hostel" means a hostel registered under section 11; (vii)
- (xviii) "registered treatment centre" means a treatment centre registered under section 9; (vi)
- (xix) "regulation" means any regulation made and in force under this Act; (xx)
- (xx) "rule" means a rule prescribed by a management under any power conferred upon by regulation; (xix)
- (xxi) "school of industries" means a school as defined in section 1 of the Child Care Act, 1983; (xv)

- (xxii) "social worker" means any person registered as a social worker under the Social Work Act, 1978 (Act No. 110 of 1978), or deemed to be so registered and who is in the service of a department of State under the control of the Minister or a prescribed welfare organization; (xii)
- (xxiii) "superintendent" means the head of a treatment centre; (xxi)
- (xxiv) "this Act" includes the regulations; (viii)
- (xxv) "treatment centre" means a treatment centre established or deemed to have been established under section 7; (i)
- (xxvi) "voluntary patient" means any person admitted to a treatment centre under section 40; (xxvi)
- (xxvii) "volunteer" means any person appointed under section 14. (xxvii)

Establishment and functions of Drug Advisory Board

2. (1) There is hereby established a board to be known as the Drug Advisory Board, which may exercise the powers and shall perform the duties conferred or imposed upon the Board by or in terms of this Act.

(2) The Board shall consist of-

- (a) an officer of the Department of National Health and Population Development nominated by that Department;
- (b) an officer of the Department of Justice nominated by that Department;
- (c) a member of the South African Police nominated by the South African Police;
- (d) a person who is an expert in the field of the treatment of the dependency on drugs; and
- (e) not more than five other members, who shall be persons who in the opinion of the Minister have special knowledge of or experience in the problem relating to the abuse of drugs or who are able to make a substantial contribution to the combating of such problem,

appointed by the Minister.

(3) (a) A member of the Board shall be appointed for a period not exceeding five years, and upon such conditions, as the Minister may determine at the time of making the appointment: Provided that the period of office of a member may be terminated at any time if in the opinion of the Minister there are good reasons for doing so.

(b) A member of the Board may on the expiration of any period for which he was appointed, be reappointed.

(4) If the office of any member of the Board becomes vacant before the expiration of the period for which he was appointed, the Minister shall, subject to the applicable provisions of subsection (2), appoint another person to hold office for the unexpired portion of the period for which his predecessor was appointed.

(5) Any member of the Board who is not an officer in the public

bsistence allowance, while he is engaged upon the business of the Board, as the Minister may, with the concurrence of the Minister of State Expenditure, determine.

(6) (a) One of the members of the Board shall be designated by the Minister as chairman of the Board, and at the first meeting of every newly constituted Board the members of the Board shall elect a vice-chairman from their number.

(b) The vice-chairman shall, when acting in the place of the chairman, in all respects have all the powers and perform all the duties of the chairman.

(7) In the event of the absence of both the chairman and the vice-chairman from any meeting of the Board, the members present at the meeting shall elect one of their number to preside at such meeting.

(8) The first meeting of the Board shall be held at a time and place to be determined by the Minister, and subsequent meetings shall be held at least twice every year and at such times and places as the chairman with the approval of the Minister may determine.

(9) (a) The Board shall, as soon as may be practicable after it has been established, frame rules governing its quorum, the procedure at meetings and, generally, the conduct of its functions, and may from time to time alter or revoke any such rules.

(b) Such rules shall have no force and effect unless they have been approved by the Minister.

(10) (a) The Director-General may designate any officer of the Department of National Health and Population Development to act as Secretary of the Board.

(b) The Secretary shall perform his functions under the supervision of the Board and shall be subject to the administrative control of the Director-General.

(11) The Board shall once every two years and whenever requested by the Minister to do so, prepare and submit to the Minister a report on its functions.

(12) The National Advisory Board on Rehabilitation Matters established under section 16 of the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act No. 41 of 1971), is hereby abolished.

Powers and duties of the Board

3. The Board-

- (a) shall advise the Minister on any matter affecting the abuse of drugs referred to the Board by the Minister for advice, and may advise the Minister on any matter on which the Board considers it necessary to advise the Minister;
- (b) may plan, co-ordinate and promote measures relating to the prevention and combating of the abuse of drugs and the treatment of persons dependant on drugs;
- (c) may plan and recommend to the Minister any research relating to drugs or the abuse thereof and may give guidance to other bodies conducting such research;

- (d) may, with the approval of the Minister, arrange conferences relating to matters concerning the functions of the Board;
- (e) may exercise such powers and shall perform such duties as may be determined by the Minister from time to time.

Executive committee

4. (1) There shall be an executive committee of the Board consisting of the chairman of the Board and so many other members of the Board as may be determined and designated by the Board.
- (2) The executive committee may, subject to the directions of the Board, during periods between meetings of the Board exercise all the powers and perform all the duties of the Board.
- (3) Subsection (2) does not empower the executive committee to set aside or amend any decision of the Board.
- (4) Any decision taken or act performed by or on the authority of the executive committee shall be of full force and effect, unless it is set aside or amended by the Board at its first meeting following the meeting of the executive committee at which such decision was taken or such action was authorized.
- (5) The executive committee may make rules in relation to the holding of, and procedure at, its meetings.

Other committees

5. (1) The Board may, subject to the approval of the Minister, from time to time establish such other committees as it may deem necessary to investigate and report to it on any matter relating to the functions of the Board.
- (2) Each such committee shall consist of such number of persons, appointed by the Board, as may be determined by the Board, and may include persons who are not members of the Board.
- (3) The Board shall designate a member of a committee, who shall also be a member of the Board, as the chairman of that committee.
- (4) Any member of a committee who is not an officer in the public service, may be paid such fees or travelling and subsistence allowance, while he is engaged upon the business of the committee, as the Minister may, with the concurrence of the Minister of State Expenditure, determine.
- (5) Any committee may make rules in relation to the holding of, and procedure at, its meetings.

Programmes for prevention and treatment of drug dependency

6. The Minister may establish or cause to be established programmes which are aimed at-
- (a) the prevention of drug dependency;
 - (b) information to the community on the abuse of drugs;
 - (c) the education of the youth in regard to the abuse of drugs;
 - (d) the observation, treatment and supervision of persons who have been released from a treatment centre or registered treatment centre or

who have been placed under supervision by a court;

- (e) the rendering of assistance to the families of persons detained in a treatment centre or registered treatment centre.

Establishment and abolition of treatment centers

7. (1) The Minister may, with the concurrence of the Minister of State Expenditure, out of moneys appropriated by Parliament for the purpose, establish, maintain and manage treatment centres for the reception and treatment, including any training, of such persons and patients as are referred to in sections 21(1) and 40 and of any persons and patients who are transferred or admitted thereto under any provision of this Act.

(2) Every rehabilitation centre established or deemed to have been established under a law repealed by this Act, and which is in existence at the commencement of this Act, shall, as from such commencement, be deemed to be a treatment centre established under subsection (1).

(3) The Minister may at any time abolish a treatment centre.

Purposes for which persons are detained in treatment centres

8. The patients of a treatment centre shall be detained therein for the purpose of receiving or undergoing such treatment, including any training, and to perform such duties as the Director-General may in consultation with the management from time to time determine, either generally or in a particular case.

Registration of certain institutions

9. (1) No person shall manage any institution or other place maintained mainly for the accommodation and care of persons who are dependant on drugs or in which such persons receive mainly physical, psychological, spiritual or social treatment, except a treatment centre, unless such institution or place is registered under this section.

(2) Any person who desires to manage an institution or place referred to in subsection (1), shall apply in the prescribed manner to the Director-General for the registration thereof.

(3) The Director-General may, after consideration of such application and such other information as he may obtain, and if he is satisfied that such institution or place is so managed and conducted or will probably be so managed and conducted that the reception, maintenance, treatment and training of persons and patients referred to in sections 21(1) and 40 and the powers conferred by or in terms of this Act upon the management of a registered treatment centre, may properly be entrusted to or conferred upon the management of that institution or place and that the institution or place complies with the prescribed requirements, in his discretion grant the application on such conditions as he may deem fit and issue a registration certificate specifying those conditions to the applicant in the prescribed form.

(4) If the Director-General is after consideration of such application not so satisfied, he shall refuse the application or, if he is satisfied that such institution or place is managed or conducted or will probably be managed or conducted as contemplated in subsection (3), but that such institution or place does not comply with the prescribed requirements, the Director-General may on such conditions as he may deem fit, authorize the applicant to manage such institution or place for such period, but not exceeding 18 months, as the Director-General may determine and may issue to the applicant a temporary registration certificate, specifying those

conditions, in the prescribed form for the period so determined and may after expiration of the said period, or after notice by the applicant in the prescribed manner that the conditions so specified have been complied with, whichever may occur first, reconsider the application.

(5) The Director-General may after one month's notice of his intention to do so and after consideration of any written representations received by him during such month, amend or cancel a registration certificate or temporary registration certificate issued under subsection (3) or (4).

(6) The amendment or cancellation of such registration certificate or temporary registration certificate shall be effected by notice in writing to the holder thereof, and shall come into operation on a date specified in the notice, not being earlier than three months after the date of the notice, unless the Director-General and the holder of the registration certificate or temporary registration certificate have agreed otherwise.

(7) A registration certificate or temporary registration certificate issued under subsection (3) or (4) shall not be transferable.

(8) (a) The holder of a registration certificate or temporary registration certificate issued under subsection (3) or (4) may after three months' written notice surrender such registration certificate or temporary registration certificate to the Director-General.

(b) Whenever a registration certificate or temporary registration certificate is cancelled under subsection (5) or surrendered under paragraph (a), the powers and duties conferred or imposed under this Act on the holder thereof in respect of any patient shall devolve upon the Director-General.

(9) Every registered rehabilitation centre registered under a law repealed by this Act, and which is in existence at the commencement of this Act, shall, as from such commencement, be deemed to be a registered treatment centre registered under subsection (3).

(10) Any person who contravenes or fails to comply with any provision of this section, or any condition imposed thereunder, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Establishment of hostels

10. (1) The Minister may, with the concurrence of the Minister of State Expenditure, out of moneys appropriated by Parliament for the purpose, establish, maintain and manage hostels for the purpose of providing homes for-

- (a) patients who have, in terms of the provisions of this Act, been released on licence from a treatment centre or registered treatment centre or have been granted leave of absence therefrom;
- (b) patients who have been discharged from the effect of an order made under this Act;
- (c) persons referred to in section 21;
- (d) patients referred to in section 40;
- (e) persons who are receiving or undergoing or have received or undergone treatment for dependency on drugs in an institution of a provincial administration or who have received or undergone such treatment in any institution approved by the Director-General.

(2) Every hostel established or deemed to have been established under a law repealed by this Act, and which is in existence at the commencement of this Act, shall, as from such commencement, be deemed to be a hostel established under this section.

Registration of certain hostels

11. (1) No person shall manage any institution or other place maintained mainly for the accommodation of persons referred to in section 10(1), except a hostel maintained by the State, including a provincial administration, for any purpose referred to in section 10, unless such institution or place is registered under this section.

(2) The Director-General may on application in the prescribed manner by any person desiring to manage such institution or place, in his discretion register the institution or place concerned on such conditions as may be mentioned in the registration certificate, which shall be issued in the prescribed form, or he may refuse the application.

(3) The Director-General may after one month's notice of his intention to do so and after consideration of any written representations received by him during such month, amend or cancel a registration certificate issued under subsection (2).

(4) The amendment or cancellation of such registration certificate shall be effected by notice in writing to the holder thereof, and shall come into operation on a date specified in the notice, not being earlier than three months after the date of the notice, unless the Director-General and the holder of the registration certificate have agreed otherwise.

(5) (a) A registration certificate issued under subsection (2) shall not be transferable.

(b) The holder of such registration certificate may after three months' written notice surrender such registration certificate to the Director-General

(6) Every registered hostel registered under a law repealed by this Act, and which is in existence at the commencement of this Act, shall, as from such commencement, be deemed to be a registered hostel registered under subsection (2).

(7) Any person who contravenes or fails to comply with any provision of this section, or any condition imposed thereunder, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Inspection of registered treatment centres, registered hostels, institutions and places

12. (1) A social worker, medical officer or any other person authorized thereto by the Director-General, or any magistrate, may, and shall if so directed by the Minister, enter any registered treatment centre, registered hostel or institution or place referred to in section 9(1) or 11(1) and inspect that registered treatment centre, registered hostel, institution or place and the books and documents appertaining thereto and any patient or person detained or accommodated therein or cause such patient or person to be examined by a medical officer or psychiatrist.

(2) Any social worker, medical officer or other person so authorized shall be furnished with a certificate to that effect, signed by the Director-General, which he, when acting under subsection (1), shall produce

at the request of any person affected by the inspection.

(3) Any person who obstructs or hinders any social worker, medical officer or other person so authorized or any magistrate in the exercise of any power conferred upon him under subsection (1), or who fails to produce any patient or person, book or document whose production a social worker, medical officer or other person so authorized or any magistrate has demanded, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Staff of treatment centres and hostels

13. (1) (a) The Director-General may, subject to the laws governing the public service, appoint the staff necessary for the proper management and control of treatment centres and hostels and shall appoint for every treatment centre a social worker, medical practitioner, psychiatrist, clinical psychologist or nurse as superintendent.

(b) The powers and duties of persons so appointed shall be as prescribed. (2) The superintendent of every treatment centre shall be assisted in the treatment and training of patients and in the determination of the treatment and training which patients or a particular patient of the treatment centre shall receive or undergo or the work to be performed by such patients or patient, by the social worker, medical practitioner, psychiatrist, clinical psychologist or nurse who may be attached to or assigned to the treatment centre.

Appointment and register of volunteers

14. (1) The Director-General may appoint any person as a volunteer to exercise such powers or to perform such duties in accordance with a programme referred to in section 6 as may be agreed upon in writing with the said volunteer. (2) A volunteer shall not be appointed under subsection (1), unless he-

(a) has a qualification which in the opinion of the Director-General is appropriate; or

(b) has successfully completed the prescribed course; and (c) has signed the agreement referred to in subsection (1).

(3) The Director-General shall deliver to each volunteer, on his appointment, a certificate of appointment setting out his powers and duties and shall keep a copy thereof as prescribed.

(4) The Director-General shall keep a register of volunteers in the prescribed manner.

Identification of volunteers

15. (1) A volunteer shall not exercise any power or perform any duty unless he is in possession of his certificate of appointment.

(2) A volunteer shall produce his certificate of appointment at the request of any person having a material interest in the programme in question.

Termination of appointment of volunteer and withdrawal of certificate of appointment

16. The Director-General -

- (a) may terminate the appointment of a volunteer if he is satisfied that-
 - (i) the volunteer does not perform his duties as set out in his certificate of appointment;
 - (ii) the volunteer has made a false statement or has given false information with a view to obtaining his appointment;
 - (iii) the services of the volunteer are no longer required or that circumstances are such that his services can no longer be usefully employed in a programme referred to in section 6;
- (b) shall withdraw the certificate of appointment of a person whose appointment has been terminated under paragraph (a) or to whom the certificate has wrongly been issued or who has died or who has resigned.

Penalty for pretence as volunteer

17. A person who pretends to be a volunteer shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Remuneration of volunteers

18. (1) The Minister may in his discretion out of moneys appropriated by Parliament for the purpose pay a volunteer the prescribed allowances, and may in addition, subject to the provisions of subsection (3), out of such moneys compensate him in part or in full for expenses necessarily incurred by him in order to render services by virtue of this Act.

(2) A volunteer shall in the prescribed manner submit his claim for reimbursement of expenses referred to in subsection (1) to the Director-General within three months after such expenses have been incurred.

(3) A volunteer shall not be entitled to reimbursement of expenses under subsection (1)-

- (a) unless he has been authorized in advance by the Director-General to incur such expenses;
- (b) if he has already been adequately compensated from another source for such expenses.

False statements regarding expenses

19. A volunteer who makes a false statement regarding expenses referred to in section 18 when submitting a claim in terms of the said section, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Liability for patrimonial loss arising from performance of service by volunteers

20. (1) Subject to the provisions of subsection (3), patrimonial loss which may be recovered from a volunteer by virtue of a delict committed by him in the performance of his functions in terms of this Act, maybe recovered from the State.

(2) Subsection (1) shall not be construed as precluding the State from obtaining indemnification against its liability in terms of the said

subsection by means of insurance or otherwise.

(3) Patrimonial loss which may be recovered from the State in terms of subsection (1) shall be reduced by the amount which the harmed person could recover from some person other than the volunteer by reason of the same cause of action.

(4) In so far as the State has made a payment by virtue of a right of recovery in terms of subsection (1), all the relevant rights and legal remedies of the harmed person against the volunteer shall pass to the State.

(5) If any person as a result of the performance of services by a volunteer in terms of this Act has suffered patrimonial loss which cannot be recovered from the State in terms of subsection (1), the Director-General may, with the concurrence of the Department of State Expenditure, ex gratia pay that person such amount as the Director-General may deem reasonable.

Procedure for bringing persons eligible for admission to a treatment centre or registered treatment centre, before a magistrate

21. (1) Whenever there is lodged with or made before a public prosecutor a sworn declaration in writing by any person, including any social worker, alleging that any other person who is within the area of jurisdiction of the magistrate's court to which such prosecutor is attached, is a person who is dependant on drugs and in consequence thereof squanders his means or injures his health or endangers the peace or in any other manner does harm to his own welfare or the welfare of his family or fails to provide for his own support or for that of any dependant whom he is legally liable to maintain, the clerk of the court shall, at the request of the public prosecutor, issue and deliver to a police officer a summons to be served on such person calling on him to appear before a magistrate within such area at a time and place stated therein, or if the public prosecutor does not request the issue of such a summons, a magistrate of the court in question may, on the application of the public prosecutor, issue a warrant directing that such person be arrested and as soon thereafter as practicable be brought before a magistrate within such area.

(2) A public prosecutor shall not in terms of subsection (1) request a clerk of the court to issue a summons in respect of any person or request a magistrate to issue a warrant of arrest, unless he has obtained from a social worker a report as to the social circumstances of the person concerned and any other relevant matter affecting him.

(3) All the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), relating to the form and manner of execution of warrants of arrest, the service of summonses in criminal cases in inferior courts, the arrest, detention, searching and other treatment necessary for the control of persons named in warrants of arrest, the time to be allowed for appearance in the case of any person summoned and the manner in which persons summoned to appear may be dealt with on failure to appear or to remain in attendance as required, shall mutatis mutandis apply in respect of warrants of arrest and summonses issued under this section.

Committal of persons to treatment centre or registered treatment centre after enquiry

22. (1) (a) Subject to the provisions of this section, a magistrate before whom any person is brought in terms of section 21(1) shall, in the presence of that person, enquire whether he is such a person as is described in that section.

(b) A public prosecutor, or some other fit and proper person designated by the magistrate concerned, shall appear at the enquiry, and such prosecutor or other person may call witnesses and cross-examine witnesses who give evidence at the enquiry.

(c) The person in respect of whom the enquiry is being held shall be entitled to be represented by an advocate or attorney and he or his legal representative shall be entitled to cross-examine any witness and to call witnesses and he may give evidence himself and he or his legal representative may show cause why an order should not be made under subsection (6) in respect of him.

(2) Save as is otherwise provided in this Act, the laws governing criminal trials in magistrates' courts shall mutatis mutandis apply in respect of securing the attendance of witnesses at such enquiry, the examination of witnesses, the recording of evidence, the payment of allowances to witnesses and the production of books, documents and things.

(3) (a) No person whose presence is not necessary shall be present at the enquiry, except with the consent of the magistrate.

(b) The provisions of section 159(1) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in so far as they relate to the holding of a criminal trial in the absence of an accused person, shall mutatis mutandis apply in respect of an enquiry held in terms of this section.

(c) The provisions of section 108 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), shall mutatis mutandis apply in respect of proceedings in connection with an enquiry held in terms of this section as if those proceedings were proceedings in a court contemplated in the said section 108.

(d) Any person who at such an enquiry gives false evidence knowing it to be false, or not knowing or believing it to be true, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

(4) The magistrate holding the enquiry-

(a) shall, before he makes any order under subsection (6), direct the public prosecutor or other person appearing at the enquiry in terms of subsection (1)(b), to submit to him the report obtained from a social worker in terms of section 21(2); and

(b) may direct that the person in respect of whom the enquiry is being held be examined by a medical officer, psychiatrist or clinical psychologist designated by the magistrate and cause all steps (including the use of force) which may be necessary for the carrying out of such examination to be taken and may call upon the medical officer, psychiatrist or clinical psychologist to furnish him with a report showing the results of the examination.

(5) The contents of any report submitted or furnished in terms of subsection (4) shall be disclosed to the person concerned, and he or his legal representative shall be given an opportunity, if he so desires, of cross-examining the person by whom it was made in relation to any matter arising out of the report and of refuting any allegation contained therein.

(6) If it appears to the magistrate, on consideration of the evidence and of any report submitted or furnished to him in terms of subsection (4)-

(a) that the person concerned is such a person as is described in section 21(1); and

- (b) that he is a person who requires and would probably benefit by the treatment and training provided in a treatment centre or registered treatment centre; or
- (c) that it would be in his own interest or in the interest of his dependants, if any, or in the interest of the community, that he be detained in a treatment centre or registered treatment centre, he may, subject to the provisions of section 23, order that the person concerned be detained in a treatment centre or registered treatment centre designated by the Director-General.

(7) The magistrate who makes an order under subsection (6) that a person shall be detained in a treatment centre or registered treatment centre, as the case may be, may also order that such person be detained in custody or released on bail or warning as provided in section 24(1) until such time as effect can be given to the order the court has made.

Postponement of order

23. (1) If it appears to a magistrate at an enquiry under section 22 that the person in respect of whom the enquiry is being held is such a person as is referred to in subsection (6) of that section, the magistrate may, in his discretion, make an order postponing for a period not exceeding three years the making of an order in terms of that subsection and release the person concerned on condition-

- (a) that he shall submit himself to supervision by a social worker;
- (b) that he shall undergo any prescribed treatment; and
- (c) that he shall comply with such prescribed requirements as the magistrate may determine.

(2) The Director-General may, after consideration of a report by a social worker, at any time unconditionally discharge any person in respect of whom the making of an order has been postponed in terms of this section.

(3) Where the making of an order has been postponed for a period of less than three years, the Director-General may, after consideration of a report by a social worker, at any time before the expiration of such period make an order extending the period of postponement for such further period, not exceeding the difference between three years and the period for which the making of the order has been postponed, as he may deem fit.

(4) If at the end of the period for which the making of an order has been postponed in terms of this section the Director-General is satisfied that the person concerned has observed all the conditions subject to which he was released, the Director-General shall unconditionally discharge him.

(5) (a) If a person in respect of whom the making of an order has been postponed in terms of this section fails to comply with any of the conditions subject to which he was released, he may, upon the order of any magistrate, be arrested without warrant by any police officer or social worker, and any magistrate may then make an order in terms of section 22(6) as if the making of such an order had never been postponed.

(b) Any person arrested in terms of paragraph (a) may be detained in custody in any place referred to in section 24(1)(a) until he can be brought before a magistrate.

(c) The provisions of section 24(2) shall mutatis mutandis apply in respect of any person detained in custody in a place referred to in the

said section in terms of paragraph (b).

(d) A copy of any order made under subsection (1) purporting to be certified by the clerk of the court or any other officer having the custody of the records of the magistrate's court to which the magistrate who made the order is or was attached shall, if the name of the person mentioned therein against whom such order was made, substantially corresponds with that of the person who is to be dealt with in accordance with the provisions of subsection (2), (3), (4) or (5) of this section, on the mere production thereof be prima facie proof of the fact that such order was so made against such person.

Temporary custody of persons pending enquiry or removal to treatment centre or registered treatment centre

24. (1) (a) A magistrate holding an enquiry under section 22 may, if he deems it necessary or expedient, postpone or adjourn the enquiry for periods determined by him having regard to the circumstances of the case, and may, in his discretion, order that, during the postponement or adjournment, the person concerned be detained in custody in a treatment centre, registered treatment centre, hostel, registered hostel, prison, police cell or lock-up or other place regarded by the magistrate as suitable, or, if the person concerned is under the age of 18 years, in a place of safety or be released on bail or warning mutatis mutandis as if he were a person whose trial on a criminal charge in a magistrate's court had been postponed or adjourned.

(b) No person shall under this subsection be detained in custody for a continuous period of longer than 28 days.

(2) The Minister may, with the concurrence of the Minister of State Expenditure, out of moneys appropriated by Parliament for the purpose, contribute towards the maintenance of any person who is, in terms of subsection (1), detained in a treatment centre, registered treatment centre, registered hostel, children's home or any other place which is not maintained by the State.

Appeals against and review of certain orders

25. The law relating to appeals and any form of review in criminal cases shall mutatis mutandis apply in respect of any order made under section 22, 23 or 24 as if such order were a sentence passed by a magistrate's court in a criminal case.

Detention in treatment centre or registered treatment center

26. (1) Any person who has been ordered to be detained in a treatment centre or registered treatment centre under section 22 or who has been transferred to a treatment centre or registered treatment centre in terms of the provisions of this Act, shall be detained in the treatment centre or registered treatment centre concerned until he is released on licence or discharged or transferred or returned to any other institution in terms of any provision of this Act.

(2) The superintendent of a treatment centre or the management of a registered treatment centre shall -

(a) notify the Director-General when a patient is released on licence in terms of the provisions of this Act and of the particulars of such release;

(b) if a patient has, after the expiration of a period of 12 months after the making of an order referred to in section 22(6), not yet

been discharged from the treatment centre or registered treatment centre concerned, report fully to the Director-General and advance reasons why such patient shall not be so discharged and shall, every six months thereafter, if such patient has not been so discharged, advance further reasons why he should not be discharged.

(3) The Director-General may, if he deems it in the interest of any patient, at any time by order in writing discharge that patient from the effect of any order made under this Act.

(4) The discharge of a patient from the effect of any order made under this Act shall not preclude the subsequent committal or transfer of the person concerned to a treatment centre or registered treatment centre.

(5) If any person under the age of 18 years is, in terms of the provisions of this Act, to be detained in a treatment centre or registered treatment centre, the Director-General may direct that he be detained in a place of safety, and, if he is so detained, such place of safety shall in relation to such person be deemed to be a treatment centre or registered treatment centre for the purposes of this Act.

Transfer of patients from and to treatment centres and registered treatment centres

27. (1) Subject to the provisions of subsection (2), the Director-General may at any time after consultation with the managements concerned-

- (a) transfer a patient, other than a voluntary patient, from one treatment centre to another treatment centre; or
- (b) transfer a patient, other than a voluntary patient, from a treatment centre to a registered treatment centre and vice versa; or
- (c) transfer a patient, other than a voluntary patient, from one registered treatment centre to another registered treatment centre, if the patient concerned will in his opinion benefit or probably benefit by the treatment or training provided at the treatment centre or registered treatment centre to which he is so transferred.

(2) No person transferred to a treatment centre in terms of section 28 shall be transferred under this section to a registered treatment centre.

Transfer of persons from prison to treatment center

28. (1) Notwithstanding anything to the contrary contained in the Correctional Services Act, 1959 (Act No. 8 of 1959), or in any other law, the Minister of Correctional Services may, in consultation with the Minister, by order in writing transfer to a treatment centre designated by the Minister any person who is undergoing a term of imprisonment in any prison which is subject to the provisions of the said Act, if, in his opinion-

- (a) it is desirable that such person should, before he is returned to the community, receive or undergo treatment or training in a treatment centre; and
- (b) such person is a person who will or will probably benefit by the particular kind of treatment and training provided in a treatment centre.

(2) A person transferred to a treatment centre in terms of subsection (1) shall be deemed to be discharged from the provisions of the Correctional Services Act, 1959, and shall become subject, mutatis

mutandis, to all the provisions of this Act as if he had in the first instance been committed to a treatment centre under this Act.

Retransfer from treatment centre to prison

29. (1) The Minister may, in consultation with the Minister of Correctional Services, retransfer to the prison from which he was originally transferred, or to any other prison designated by the Commissioner of Correctional Services, any person transferred to a treatment centre under section 28.

(2) Any patient retransferred to a prison in terms of subsection (1), shall be deemed to be discharged from the provisions of this Act, and shall thereafter again become subject to the provisions of the Correctional Services Act, 1959 (Act No. 8 of 1959), and the regulations made thereunder.

(3) For the purpose of calculating the period for which a person retransferred to a prison in terms of subsection (1) shall be detained therein under the sentence passed upon him, the period between the date of his transfer to a treatment centre and the date of his retransfer to that prison shall count as part of his sentence.

Transfer of persons from children's home, school of industries or reform school to treatment centre or registered treatment centre

30. (1) Notwithstanding anything to the contrary contained in the Child Care Act, 1983 (Act No. 74 of 1983), or in any other law, a Minister other than the Minister, if such other Minister is entrusted with the administration or registration of a children's home, school of industries or reform school, may, in consultation with the Minister, and the Minister may, if he is entrusted with the administration or registration of a children's home, school of industries or reform school, by order in writing transfer to a treatment centre or registered treatment centre designated by the Minister, any person who is undergoing a period of detention in that children's home, school of industries or reform school, if, in his opinion-

- (a) it is desirable that such person should, before he is returned to the community, receive or undergo treatment or training in a treatment centre or registered treatment centre; and
- (b) such person is a person who will or will probably benefit by the particular kind of treatment and training provided in the treatment centre or registered treatment centre in question.

(2) A person transferred to a treatment centre or registered treatment centre in terms of subsection (1), shall be deemed to be discharged from the provisions of the Child Care Act, 1983, and shall become subject, mutatis mutandis, to all the provisions of this Act as if he had in the first instance been committed to such treatment centre or registered treatment centre, as the case may be, under this Act.

Retransfer from treatment centre or registered treatment centre to children's home, school of industries or reform school

31. (1) The Minister may, in consultation with the other Minister concerned, retransfer to the children's home, school of industries or reform school from which he was originally transferred, or to any other children's home, school of industries or reform school designated by the Minister concerned, any person transferred to a treatment centre or registered treatment centre under section 30 if in the opinion of the Minister, on representations made to him by the Director-General, such person has proved to be unsuited to or is not likely to benefit by the kind

of treatment and training provided in the treatment centre or registered treatment centre, as the case may be.

(2) Any patient retransferred to a children's home, school of industries or reform school in terms of subsection (1), shall be deemed to be discharged from the provisions of this Act, and shall thereafter again become subject to the law governing the children's home, school of industries or reform school to which he has been retransferred.

(3) Any person retransferred to a children's home, school of industries or reform school in terms of subsection (1), shall not be detained in a children's home, school of industries or reform school beyond the expiration of the period for which he could, under the order of the court which authorized his detention, have been detained in a children's home, school of industries or reform school had he not been transferred.

Transfer of persons from institution to treatment centre or registered treatment center

32. (1) Notwithstanding anything to the contrary contained in the Mental Health Act, 1973 (Act No. 18 of 1973), or in any other law, a Minister other than the Minister, if such other Minister is entrusted with the reception, detention and treatment of persons in an institution, may, in consultation with the Minister, and the Minister may, if he is entrusted with the reception, detention and treatment of persons in an institution, by order in writing transfer to a treatment centre or registered treatment centre designated by the Minister, any person detained in that institution, if in his opinion such person is a person who will or will probably benefit by the particular kind of treatment and training provided in the treatment centre or registered treatment centre in question.

(2) A person transferred to a treatment centre or registered treatment centre in terms of subsection (1) shall be deemed to be discharged from the provisions of the Mental Health Act, 1973, and shall become subject, mutatis mutandis, to all the provisions of this Act as if he had in the first instance been committed to such treatment centre or registered treatment centre, as the case may be, under this Act.

Retransfer from treatment centre or registered treatment centre to institution

33. (1) The Minister may, in consultation with the other Minister concerned, retransfer to the institution from which he was originally transferred, or to any other institution designated by the Minister concerned, any person transferred to a treatment centre or registered treatment centre under section 32 if in the opinion of the Minister, on representations made to him by the Director General, such person has proved to be unsuited to or is not likely to benefit by the kind of treatment and training provided in the treatment centre or registered treatment centre, as the case may be.

(2) Any patient retransferred to an institution in terms of subsection (1) shall be deemed to be discharged from the provisions of this Act, and shall thereafter again become subject to the law governing the institution to which he has been transferred.

Transfer of patients from treatment centre or registered treatment centre to institution

34. (1) The Minister may, in consultation with the Minister entrusted with the reception, detention and treatment of persons in an institution, by order in writing transfer to an institution designated by the Minister concerned, any person from a treatment centre or registered treatment

centre if the patient concerned will in his opinion benefit or probably benefit by such a transfer.

(2) Any patient transferred to an institution in terms of subsection (1) shall be deemed to be discharged from the provisions of this Act, and shall become subject, *mutatis mutandis*, to all the provisions of the Mental Health Act, 1973 (Act No. 18 of 1973), as if he had in the first instance been committed to the institution under the Mental Health Act, 1973.

Retransfer from institution to treatment centre or registered treatment centre

35. (1) Notwithstanding anything to the contrary contained in the Mental Health Act, 1973 (Act No. 18 of 1973), or in any other law, a Minister, other than the Minister, if such other Minister is entrusted with the reception, detention and treatment of persons in an institution, may, in consultation with the Minister, and the Minister may, if he is entrusted with the reception, detention and treatment of persons in an institution, retransfer to the treatment centre or registered treatment centre from which he was originally transferred, or to any other treatment centre or registered treatment centre designated by the Minister, any person transferred to an institution under section 34 if such person has proved not to have benefited from his transfer to the institution.

(2) A person retransferred to a treatment centre or registered treatment centre in terms of subsection (1) shall be deemed to be discharged from the provisions of the Mental Health Act, 1973, and shall thereafter again become subject to the provisions of this Act.

Leave of absence from treatment centre or registered treatment center

36. The management of a treatment centre or registered treatment centre may, and shall if so directed by the Director-General, grant to any patient leave of absence therefrom for such periods and on such conditions as may be prescribed, and may at any time revoke such leave and direct the patient to return to the treatment centre or registered treatment centre, as the case may be.

Patient of treatment centre or registered treatment centre may be released on licence

37. (1) The management of a treatment centre or registered treatment centre may with the approval of the Director-General, and shall, if so directed by the Director-General, release a patient on licence therefrom, subject to the provisions of subsection (2) and to any conditions which it may stipulate, and may at any time vary the conditions of such licence.

(2) A patient who has been released on licence shall, in accordance with the regulations, remain under the supervision of a social worker or a person approved by the Director-General, until such licence expires or is cancelled in terms of this Act or he is discharged in terms of a provision of this Act: Provided that the Director-General may discharge a patient from the effect of any order made under this Act at any time prior to the expiration of the period for which he was released on licence.

Revocation of licence

38. (1) (a) If a patient who has been released on licence fails to comply with any condition of his release on licence, or if, in the opinion of the management of the treatment centre or registered treatment centre concerned, he has not proved capable of adjusting himself properly to the normal life of the community, the patient's licence may be revoked by such management and he may be recalled to the treatment centre or registered

treatment centre in question: Provided that where the need for recalling a patient is so urgent that it ought not to be deferred until the management has dealt with the matter, the superintendent, or the chairman of the management of the registered treatment centre, may exercise all the powers of the management under this subsection.

(b) A patient who has in terms of paragraph (a) been recalled to a treatment centre or registered treatment centre and who does not return thereto without delay, may be arrested without warrant by any police officer, social worker or member of the staff of any treatment centre or registered treatment centre authorized thereto by the Director-General and be taken back or returned to the treatment centre or registered treatment centre from which he was released on licence.

(c) Any person arrested in terms of paragraph (b) may be detained in custody in any place referred to in section 24(1) (a) until he can be taken back or returned to the treatment centre or registered treatment centre in question.

(d) The provisions of section 24(2) shall mutatis mutandis apply in respect of any person detained in custody in terms of paragraph (c) in a place referred to in the said subsection.

(2) Any person recalled to a treatment centre or registered treatment centre in terms of subsection (1) who has returned thereto or has been taken back or returned thereto shall be detained therein until he is discharged or again released on licence in terms of this Act.

Method of dealing with absconders from treatment centre or registered treatment center

39. (1) For the purposes of this section, a patient who has been granted leave of absence from a treatment centre or registered treatment centre and who on the revocation or expiration of his leave of absence fails to return to the treatment centre or registered treatment centre from which he was granted such leave, and a patient who without permission absents himself from any hospital to which he may have been admitted at the instance of the superintendent or the management of a treatment centre or registered treatment centre, shall be deemed to have absconded from the treatment centre or registered treatment centre from which he was granted leave of absence or from which he was admitted to such hospital.

(2) (a) A patient who has absconded from a treatment centre or registered treatment centre may be arrested without warrant by any police officer, social worker or member of the staff of any treatment centre or registered treatment centre authorized thereto by the Director-General, and shall as soon as possible be brought before a magistrate of the district in which he was arrested.

(b) Any person who obstructs or hinders a police officer, social worker or authorized member referred to in paragraph (a) in the exercise of any power conferred upon him under paragraph (a) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

(c) Any person arrested in terms of paragraph (a) may be detained in custody in any place referred to in section 24(1)(a) until he can be brought before the said magistrate.

(3) A magistrate before whom any such patient is brought shall, after having enquired into the reasons why the patient absconded, order that the patient-

- (a) be returned to the treatment centre, registered treatment centre or hospital from which he absconded; or
- (b) be detained in custody, pending the decision of the Director-General, in any place referred to in section 24(1)(a) designated by the magistrate, and shall in either case forthwith report to the Director-General the result of his enquiry, and any order which he made under this subsection.

(4) On consideration of the magistrate's report and after any further enquiry which he may deem necessary, the Director-General shall, if the magistrate has ordered that the patient be detained in custody pending the decision of the Director-General -

- (a) direct that the patient be returned to the treatment centre, registered treatment centre or hospital from which he absconded; or
- (b) deal with him under section 27(1); or
- (c) direct that the patient be released on licence in terms of section 37; or
- (d) direct that he be discharged from the effect of an order made under this Act.

(5) The provisions of section 24(2) shall mutatis mutandis apply in respect of any person detained in custody in a place referred to in the said section in terms of subsection (2)(c) or in pursuance of an order made under subsection.

Admission of voluntary patient to treatment centre

40. (1) Any person may, either himself or through any other person acting on his behalf, or a parent or guardian may on behalf of a minor child of which he is the parent or guardian, apply to a superintendent in the prescribed manner that he or such minor child, as the case may be, be admitted to a treatment centre as a voluntary patient.

(2) (a) The application shall be accompanied by a report by a social worker regarding the applicant's or minor's social circumstances, including any medical or psychiatric report which the superintendent may deem necessary.

(b) If in the opinion of the superintendent it would cause undue hardship if the applicant were to be required to pay the expenses incurred in obtaining any report referred to in paragraph (a), he may direct that such expenses be met from moneys appropriated by Parliament for the purpose.

(3) If the superintendent to whom the application is made is of the opinion, after considering the application and the documents accompanying it, that the person or minor for whose admission to a treatment centre application is being made (hereinafter in this section referred to as the patient) is probably such a person as is referred to in section 21(1), and if he is prepared to admit the patient to his treatment centre, he shall notify the patient accordingly, and transmit the application and the said documents and a report as is contemplated in section 21(2) on the patient to the Director-General.

(4) If the Director-General is, at any time after the patient has been so admitted to a treatment centre and after such enquiry as he may deem fit, satisfied that the patient is not such a person as is contemplated in section 21(1) or that he will probably not benefit by the treatment and

training provided in a treatment centre or that his admission to a treatment centre has been obtained fraudulently, he may direct that the patient be discharged from the treatment centre in which he is being detained.

(5) Any person admitted under subsection (3) to a treatment centre shall be detained therein as a patient for such period, not exceeding six months, as the management concerned may determine.

(6) Any such person shall, while he remains a patient, be subject to all the applicable provisions of this Act, with the exception of section 39.

Payment of allowances to patients of treatment centres

41. (1) Subject to the provisions of subsection (2), the Minister may, with the concurrence of the Minister of State Expenditure, out of moneys appropriated by Parliament for the purpose, pay allowances to patients of treatment centres.

(2) The rates of such allowances, the classes of patients to whom the allowances are payable, and any other conditions attaching to the payment of such allowances, shall be prescribed.

Patients to have access to management and vice versa

42. The patients of a treatment centre or registered treatment centre shall, subject to the prescribed conditions, have the right of personal access to the management of that treatment centre or registered treatment centre, and the management concerned shall likewise have a similar right of access to the patients.

Maintenance of discipline in treatment centres and registered treatment centres

43. (1) If a patient of a treatment centre or registered treatment centre contravenes any regulation or any rule, the superintendent or a person designated by the management may, after holding a prescribed inquiry, take the prescribed disciplinary steps against that patient in accordance with the prescribed procedure and may impose upon the patient any punishment prescribed by the regulations for a contravention thereof or of such rules.

(2) (a) Whenever the superintendent or the person referred to in subsection (1), has punished a patient under subsection (1), the record of the proceedings shall forthwith be transmitted, together with such remarks as he may desire to append to the record, and with any written statements or arguments which the patient punished may desire to have so appended, to the clerk of the magistrate's court of the district in which the treatment centre or registered treatment centre is situated.

(b) The said clerk shall forthwith submit the record, together with such remarks, statements or arguments (if any), to the magistrate of the district for his consideration.

(3) If it appears to the magistrate that the conviction and punishment are in accordance with justice, he shall endorse his certificate to that effect upon the record and forthwith return the record to the superintendent or designated person concerned.

(4) If it appears to the magistrate, on consideration of the papers submitted to him, that the conviction or punishment is not in accordance with justice, he shall set aside or correct the proceedings, and may reduce

or vary the punishment, and shall return the record with his instructions thereon to the superintendent or designated person concerned.

Estimating of age of person -

44. (1) (a) Whenever in connection with any proceedings in terms of this Act the age of any person is a relevant fact of which no or insufficient evidence is available, the officer presiding at those proceedings may estimate the age of that person by his appearance or from any information which is available, and the age so estimated shall, for the purposes of this Act, be deemed to be the true age of that person.

(b) If it is proved after the conclusion of those proceedings that the age so estimated is not the true age of that person, the error shall not, if it was made in good faith, affect any decision given or order made in the course of those proceedings.

(2) The age of a person estimated as provided in subsection (1) shall be deemed to have been attained on the day when the estimate is made.

Witnesses from treatment centre or registered treatment center

45. The provisions of section 87 of the Correctional Services Act, 1959 (Act No. 8 of 1959), relating to prisoners shall mutatis mutandis apply with reference to a patient of any treatment centre or registered treatment centre.

Admission to treatment centre or registered treatment centre of persons from territories outside the Republic

46. (1) (a) The Government of the Republic, represented by the Minister, may enter into an agreement with the government of any country for the admission to and the detention in any treatment centre or registered treatment centre in the Republic, of any person whose detention in any institution for the treatment of persons dependant upon drugs for a period of not less than one year has been ordered by a competent court or officer of the said territory according to the law in force therein.

(b) Whenever such an agreement has been entered into, the Minister shall cause to be published in the Gazette a notice of that fact and a summary of the terms of the agreement.

(2) The Minister may, with due regard to the provisions of section 22(6), order the admission to and detention in a treatment centre or registered treatment centre of any person whose detention in an institution for the treatment of persons dependant upon drugs for a period of not less than one year has been ordered by a competent court or officer of a territory with the government of which the Government of the Republic has entered into an agreement referred to in subsection (1).

(3) Any person admitted to a treatment centre or registered treatment centre by order of the Minister under subsection (2) may be detained therein until he is discharged or released on licence in terms of a provision of this Act, but not longer than the expiration of the period fixed by the court which or officer who ordered the said person's detention in an institution for the treatment of persons dependant upon drugs.

(4) Subject to the provisions of subsection (3), the provisions of this Act and of any rule shall apply in respect of a person admitted to or detained in a treatment centre or registered treatment centre under this section as if his detention in that treatment centre or registered treatment centre had been ordered under any other provision of this Act: Provided that-

- (a) the management concerned shall not grant to such person leave of absence under section 36 without the approval of the Director General;
- (b) subject to the provisions of the agreement (if any) by virtue of which such person was admitted to the treatment centre or registered treatment centre in question, such person shall be discharged therefrom only if the Minister approves his discharge.

Delegation of Director-General's powers

47. The Director-General may delegate to any other senior officer any of the powers conferred upon him by this Act.

Regulations

48. (1) The Minister may make regulations relating to-
- (a) the form of any application, authority, notice, order, register, process or subpoena, certificate, consent or licence which shall or may be made, granted, given, kept or issued in terms of this Act, and any other form which is required in the administration of the provisions of this Act;
 - (b) the books, accounts, registers or records to be kept by the management of a registered treatment centre or registered hostel;
 - (c) the establishment, maintenance, management and control of treatment centres and hostels, and the abolition of treatment centres and hostels;
 - (d) the constitution, procedure, powers and duties of the management of a treatment centre or hostel, the appointment, resignation and discharge of members of such management who are not officers in the public service and the payment to them of allowances and of reasonable out-of-pocket expenses;
 - (e) the powers and duties of the members of the staff of treatment centres, hostels, registered treatment centres and registered hostels;
 - (f) the registration of the institutions or places referred to in section 9(1) or 11(1), the constitution, procedure, powers and duties of the managements of registered treatment centres and registered hostels, the returns and reports to be furnished by such managements and the withdrawal or surrender of certificates granted in respect of such registered treatment centres or registered hostels;
 - (g) the committal and admission of persons to treatment centres or registered treatment centres;
 - (h) the conditions subject to which and the periods for which leave of absence may be granted to patients of treatment centres or registered treatment centres, and the revocation of such leave of absence;
 - (i) the terms and conditions subject to, which patients may be released on licence, the method of supervision of such patients and the revocation of such licences;
 - (j) the transfer and retransfer of patients under sections 27 to 35

inclusive;

- (k) the matters with regard to which the management of a treatment centre, hostel, registered treatment centre or registered hostel may from time to time prescribe rules for the proper domestic administration and control thereof;
- (1) the maintenance of good order and discipline in treatment centres, hostels, registered treatment centres and registered hostels, and the treatment, training, care and control of the patients of treatment centres, hostels, registered treatment centres and registered hostels or of persons who are detained temporarily therein in terms of any provision of this Act;
- (m) enabling patients to practise their religion and the ministers of their respective denominations to have access to them;
- (n) the conditions subject to which patients shall have the right of access to the management, and vice versa;
- (o) the discharge of patients of a treatment centre or registered treatment centre from the provisions of this Act;
- (p) the duties to be performed by the patients of a treatment centre or registered treatment centre during their detention therein, and the hours and conditions of such duties;
- (q) the conditions subject to which voluntary patients may be admitted to any treatment centre, their transport thereto and their transport therefrom to their homes, the fees payable in respect of their transport, maintenance or other services rendered to them and the circumstances in which such patients may be exempted from the obligation to pay any such fees;
- (r) the disposal by sale or otherwise of any property in the possession of the management of any treatment centre or registered treatment centre and belonging to any patient who has absconded or is in terms of section 39(1) deemed to have absconded, or has died or has failed to claim or receive such property and, where the property has been sold, the disposal of the proceeds of the sale;
- (s) the requirements referred to in section 23(1)(c);
- (t) any matter which, in terms of any provision of this Act, shall or may be prescribed by regulation;
- (u) generally, all matters which he considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

(2) Regulations relating to any financial matter or any matter connected therewith, shall be made with the concurrence of the Minister of State Expenditure.

(3) (a) Regulations made under subsection (1) may prescribe penalties for any contravention thereof or of any rules prescribed by the management of a treatment centre or registered treatment centre under powers conferred upon it by regulation.

(b) Such penalties shall, in so far as they relate to persons who are not patients, not exceed a fine of R200, and in so far as they relate to patients, may take any one or more of the following forms-

- (i) forfeiture of one or more specified privileges for a

specified period;

- (ii) forfeiture of allowances, wholly or in part, for a specified period;
- (iii) increase of normal hours of labour by not more than one hour per day for a period not exceeding two days.

(c) If any form of punishment referred to in subparagraph (iii) of paragraph (b) is prescribed, the regulations shall specifically provide that no such form of punishment may be imposed unless the medical officer responsible for the medical care of the patient concerned has certified that such punishment will, in his opinion, not be harmful to the health of that patient.

(4) Different regulations may be made under subsection (1) in respect of different treatment centres, hostels, registered treatment centres or registered hostels or different categories of treatment centres, hostels, registered treatment centres or registered hostels, and the Minister may also in such regulations differentiate in any manner he may deem fit between different groups of patients in treatment centres, hostels, registered treatment centres or registered hostels generally or in any particular treatment centre, hostel, registered treatment centre or registered hostel.

Administration of Act

49. (1) The State President may by proclamation in the Gazette assign the administration of the provisions of this Act either generally or in respect of persons belonging to any specified class or category defined in the proclamation, to any Minister or partly to one Minister and partly to another Minister or other Ministers, and may in such proclamation specify the powers or duties which shall be exercised or performed by the several Ministers and may further specify that any power conferred or duty imposed upon any Minister by this Act, shall be exercised or performed by one Minister acting in consultation with another Minister, and such proclamation may contain such adaptations of such Act as are required for the administration thereof in terms of the proclamation.

(2) The State President may from time to time by like proclamation vary or amend any such proclamation.

Substitution of section 255 of Act 51 of 1977

50. The following section is hereby substituted for section 255 of the Criminal Procedure Act, 1977:

"Court may order enquiry under Prevention and Treatment of Drug Dependency Act, 1992

255. (1) (a) If in any court during the trial of a person who is charged with an offence other than an offence in respect of which the sentence of death may be passed, it appears to the judge or judicial officer presiding at the trial that such person is probably a person as is described in section 29(1) 21(1) of the Abuse of Dependence producing Substances and Rehabilitation Centres Act, 1971 Prevention and Treatment of Drug Dependency Act, 1992 (in this section referred to as the said Act), the judge or judicial officer may, with the consent of the prosecutor given after consultation with a social welfare officer worker as defined in section 1 of the said Act, stop the trial and order that an enquiry be held in' terms of section 30 22 of the said Act in respect of the person concerned by a magistrate as defined in section 1

of the said Act and indicated in the order.

(b) The prosecutor shall not give his consent in terms of paragraph (a) if the person concerned is a person in respect of whom the imposition of punishment of imprisonment except the punishment referred to in subparagraph (iii) or (iv) of section 2 of the said Act would be compulsory if he were convicted at such trial.

2) (a) If the person concerned is in custody he shall for all purposes be deemed to have been arrested in terms of a warrant issued under section 29(1) 21(1) of the said Act and shall as soon as practicable be brought before the said magistrate.

(b) If the person concerned is not in custody the said judge or judicial officer shall determine the time when and the place where the person concerned shall appear before the said magistrate, and he shall thereafter for all purposes be deemed to have been summoned in terms of section 29(1) 21(1) of the said Act to appear before the said magistrate at the time and place so determined.

(3) As soon as possible after an order has been made under subsection (1) of this section, a prosecutor attached to the court of the said magistrate shall obtain a report as is mentioned in section 29(2) 21(2) of the said Act.

(4) The provisions of the said Act shall mutatis mutandis apply in respect of a person who appears before a magistrate, as defined in section 1 of the said Act, in pursuance of an order made under subsection (1) of this section as if he were a person brought before the said magistrate in terms of section 29(1) 21(1) of the said Act and as if the report obtained in terms of subsection (3) of this section were a report obtained in terms of section 29(2) 21(2) of the said Act.

(5) If an order is made under subsection (1) in the course of a trial, whether before or after conviction, and a magistrate under the said Act orders that the person concerned be detained in a rehabilitation treatment centre or registered rehabilitation treatment centre, the proceedings at the trial shall be null and void in so far as such person is concerned.

(6) A copy of the record of the proceedings at the trial, certified or purporting to be certified by the registrar or clerk of the court or other officer having custody of the record of such proceedings or by the deputy of such registrar, clerk or other officer or, in the case where the proceedings were taken down in shorthand or by mechanical means, by the person who transcribed the proceedings, as a true copy of such record, may be produced at the said enquiry as evidence.

(7) In applying the provisions of this section with reference to a Coloured person as defined in the Coloured Persons Rehabilitation Centres Law, 1971, of the Coloured Persons Representative Council of the Republic of South Africa (Law 1 of 1971), any reference-

(a) to a provision of the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971, shall, except in the case of subsection (1)(b), be construed as a reference to a corresponding provision of the said Coloured Persons Rehabilitation Centres Law, 1971;

(b) to a 'social welfare officer' and a 'magistrate' shall be construed as a reference to a 'social worker' and a 'magistrate', respectively, as defined in the said Coloured Persons Rehabilitation

Centres Law, 1971."

Substitution of section 296 of Act 51 of 1977, as amended by section 15 of Act 56 of 1979, section 7 of Act 64 of 1982, section 11 of Act 26 of 1987 and section 46 of Act 122 of 1991

51. The following section is hereby substituted for section 296 of the Criminal Procedure Act, 1977:

"Committal to treatment centre

296. (1) A court convicting any person of any offence may, in addition to or in lieu of any sentence in respect of such offence, order that the person be detained at a rehabilitation treatment centre established under the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act 41 of 1971) Prevention and Treatment of Drug Dependency Act, 1992, if the court is satisfied from the evidence or from any other information placed before it, which shall in either of the said cases include the report of a probation officer, that such person is a person as is described in section 29(1) 21(1) of the said Act, and such order shall for the purposes of the said Act be deemed to have been made under section 30 22 thereof: Provided that such order shall not be made in addition to any sentence of imprisonment (whether direct or as an alternative to a fine) unless the operation of the whole of such sentence is suspended.

(2) In applying the provisions of this section with reference to a Coloured person as defined in the Coloured Persons Rehabilitation Centres Law, 1971, of the Coloured Persons Representative Council of the Republic of South Africa (Law 1 of 1971), any reference to a provision of the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971, shall be construed as a reference to a corresponding provision of the said Coloured Persons Rehabilitation Centres Law, 1971.

(3) (2) (a) Where a court has referred a person to a rehabilitation treatment centre under subsection (1) and such person is later found not to be fit for treatment in such rehabilitation treatment centre, such person may be dealt with mutatis mutandis in accordance with the provisions of section 276A(4).

(b) For the purposes of the provisions of paragraph (a) the expression 'a probation officer or the Commissioner' in section 276A(4) shall be construed as the person at the head of the rehabilitation treatment centre or a person authorized by him."

Repeal of laws, and savings

52. (1) Subject to the provisions of subsection (2), the laws mentioned in the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

(2) Any proclamation, regulation, rule, notice, order, appointment, authorization, leave of absence, licence, agreement, payment or certificate issued, made, prescribed, given, granted or entered into and any other action taken under any provision of a law repealed by subsection (1), shall be deemed to have been issued, made, prescribed, given, granted, entered into or taken under the corresponding provision of this Act.

Short title and commencement

53. This Act shall be called the Prevention and Treatment of Drug Dependency Act, 1992, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette, and different dates may be so fixed in respect of different provisions thereof.

Schedule

LAWS REPEALED

No. and year of Act	Short title	Extent of repeal
Act No. 86 of 1963	Retreats and Rehabilitation Centres Act, 1963	So much as is unrepealed.
Act No. 41 of 1971	Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971	The whole, except Chapter 1 and the Schedule.
Act No. 80 of 1973	Abuse of Dependence-producing Substance's and Rehabilitation Centres Amendment Act, 1973	Sections 1, 6, 7, 8 and 9.
Act No. 14 of 1977	Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, 1977	Sections 1 and 3.
Act No. 36 of 1982	Laws of the Coloured Persons Representative Council Application Act, 1982	Section 1.
Law No. 1 of 1971 (Coloured Persons Representative Council)	Coloured Persons Rehabilitation Centres Law, 1971	The whole.
Law No. 1 of 1972 (Coloured Persons Representative Council)	Coloured Persons Rehabilitation Centres Amendment Law, 1972	The whole.
Law No. 1 of 1977 (Coloured Persons Representative Council)	Coloured Persons Rehabilitation Centres Amendment Law, 1977	The whole.