



**REPUBLIC OF SOUTH AFRICA**

# **GOVERNMENT GAZETTE**

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## **STAATSKOERANT**

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**[No. 6936**

**DEPARTMENT OF THE PRIME MINISTER**

**DEPARTEMENT VAN DIE EERSTE MINISTER**

**No. 730.**

**11 April 1980.**

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**11 April 1980.**

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

**No. 22 of 1980: Prisons Amendment Act, 1980.**

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

**No. 22 van 1980: Wysigingswet op Gevangenis, 1980.**

## PRISONS AMENDMENT ACT, 1980

Act No. 22, 1980

## GENERAL EXPLANATORY NOTE:

- [**                    **]** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

# ACT

To amend the provisions of the Prisons Act, 1959, relating to definitions; to provide for the substitution for prison boards of release boards; and for the establishment of institutional committees; to extend the powers of commissioned prison officers relating to the imposition of penalties at certain trials; to further define the functions and duties of institutional committees and release boards; to further define the powers of the Minister and the Commissioner relating to the release of prisoners on probation or parole; and to provide for incidental matters.

(Afrikaans text signed by the State President.)  
(Assented to 28 March 1980.)

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 1 of the Prisons Act, 1959 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the insertion after the definition of "hospital prison for psychopaths" of the following definition:  
     "institutional committee" means an institutional committee referred to in section 5A;
- (b) by the deletion of the definition of "prison board";
- (c) by the insertion after the definition of "regulation" of the following definition:  
     "release board" means a release board referred to in section 5;
- (d) by the substitution for the definition of "release on parole" of the following definition:  
     "release on parole" means the release of any prisoner on parole in terms of section [68] 67;
2. (1) The following section is hereby substituted for section 5 of the principal Act:
- 5.** (1) The Minister shall appoint one or more boards, to be styled **[prison] release boards**, to perform the functions and duties entrusted to or imposed upon a **[prison] release board** by or under this Act.
- (2) (a) A member of a **[prison] release board** shall hold office for such period as the Minister may determine at the time of appointment.
- (b) A member of a **[prison] release board** whose office has become vacant otherwise than under paragraph (c), shall be eligible for re-appointment.
- (c) If in his opinion there are good reasons for doing so, the Minister may at any time terminate the

Amendment of section 1 of Act 8 of 1959, as amended by section 1 of Act 75 of 1965, section 46 of Act 70 of 1968, section 1 of Act 88 of 1977 and section 1 of Act 58 of 1978.

Substitution of section 5 of Act 8 of 1959, as amended by section 1 of Act 9 of 1971 and section 2 of Act 88 of 1977.

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period of office of any member of a **[prison]** release board.

(d) If the period of office of any member of a **[prison]** release board terminates before the expiration of the period for which he has been appointed, the Minister shall, with due regard to the provisions of subsection (3), appoint some other person to fill the vacancy, and until such time as such person is so appointed, the remaining members shall constitute that **[prison]** release board.

(3) (a) A **[prison]** release board shall consist of so many commissioned officers as official members and so many non-official members or only of so many commissioned officers as official members or only of so many non-official members as the Minister thinks fit.

(b) The Minister shall from time to time designate a member of a **[prison]** release board as chairman thereof.

(4) The non-official members of a **[prison]** release board shall receive such remuneration as the Minister may determine in consultation with the Minister of Finance.”.

(2) Any reference in any law or document to a prison board shall be construed as a reference to a release board as defined in section 1 of the principal Act.

3. The following section is hereby inserted in the principal Act after section 5:

Insertion of section 5A in Act 8 of 1959.

30 “Institutional committees.

5A. (1) The Commissioner shall appoint one or more committees, to be styled institutional committees, to perform the functions and duties entrusted to or imposed upon an institutional committee by or under this Act.

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(2) An institutional committee shall consist of so many members of the Prisons Service as the Commissioner may find fit and of whom one shall be designated by the Commissioner as chairman of that committee.

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(3) A member of an institutional committee shall hold office for such period and on such conditions as the Commissioner may determine.”.

4. Section 53 of the principal Act is hereby amended by the addition of the following proviso to paragraph (c) of subsection (2):

Amendment of section 53 of Act 8 of 1959, as amended by section 17 of Act 75 of 1965, section 4 of Act 4 of 1972 and section 11 of Act 58 of 1978.

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“Provided that that commissioned officer may suspend the payment of any fine so imposed, or any part of that fine, for a period not exceeding three years on any condition relating to good conduct or any other matter.”.

5. Section 54 of the principal Act is hereby amended by the addition of the following proviso to subsection (2):

Amendment of section 54 of Act 8 of 1959, as amended by section 18 of Act 75 of 1965, section 5 of Act 9 of 1971 and section 12 of Act 58 of 1978.

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“Provided that that commissioned officer may suspend the operation of any penalty imposed in terms of paragraph (e), or any part of that penalty, for a period not exceeding three years on any condition relating to good conduct or any other matter.”.

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6. The following headings are hereby substituted for the headings preceding section 61 of the principal Act:

Substitution of headings preceding section 61 of Act 8 of 1959.

“CHAPTER VI

60 FUNCTIONS AND DUTIES OF [PRISON] INSTITUTIONAL COMMITTEES AND RELEASE BOARDS AND RELEASES OF PRISONERS

*Functions and duties of institutional committees and [prison] release boards”.*

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7. The following section is hereby substituted for section 61 of the principal Act:

Substitution of section 61 of Act 8 of 1959, as amended by section 15 of Act 58 of 1978.

5 "Functions and duties of institutional committees. 61. An institutional committee shall, with due regard to any remarks made by the court in question at the time of the imposition of the sentence and at such times and intervals (which intervals shall not be longer than six months) as may be determined by the Commissioner or when otherwise required by the Commissioner or release board—

10 (a) make recommendations as to the training and treatment to be applied to any prisoner referred to in paragraph (b);

15 (b) submit reports in the prescribed form to the Commissioner and the release board on, *inter alia*, the conduct, adaptation, training, aptitude, industry, physical and mental state of health and the possibility of relapse into crime of every prisoner who is detained in the prison in respect of which it has been established and—

20 (i) upon whom a sentence of imprisonment for corrective training has been imposed;

(ii) upon whom a sentence of imprisonment for the prevention of crime has been imposed;

25 (iii) upon whom a sentence of imprisonment of two years or more has been imposed;

(iv) upon whom a life sentence has been imposed;

(v) who has been declared to be an idle person in terms of the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);

30 (vi) who has been declared an habitual criminal; or

(vii) with regard to whom a special report is required by the Commissioner; and

35 (c) perform such other functions and duties as the Commissioner may determine from time to time."

8. The following section is hereby inserted in the principal Act after section 61:

Insertion of section 61A in Act 8 of 1959.

45 "Functions and duties of release board. 61A. A release board shall at such times and intervals as may be determined by the Commissioner or when otherwise required by the Commissioner—

(a) with due regard to any remarks made by the court in question at the time of the imposition of the sentence on the prisoner concerned and of any report on that prisoner furnished to it in terms of section 61 (b) by the institutional committee concerned, make recommendations as to—

50 (i) the release of that prisoner either on probation or on parole or at the expiration of his sentence;

(ii) the period for and the conditions on which that prisoner may be released on probation;

55 (iii) the period for, supervision under and conditions on which that prisoner may be released on parole;

(iv) the remission of portion of the sentence imposed upon that prisoner if he is a prisoner referred to in section 61 (b) (iii);

60 (b) perform such other functions and duties as may be prescribed by regulation."

9. Section 66 of the principal Act is hereby amended—

65 (a) by the substitution for subsection (3) of the following subsection:

Amendment of section 66 of Act 8 of 1959.

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5 “(3) The Minister may authorize the release of the prisoner either on probation or on parole [or submit the report, together with such recommendation as he may think fit, for the consideration of the State President] on the date recommended by the release board or on such other date as he may direct.”;

(b) by the deletion of subsection (4).

10 10. The following section is hereby substituted for section 67 of the principal Act:

Substitution of section 67 of Act 8 of 1959, as amended by section 19 of Act 75 of 1965.

10 “Release on probation or parole. 67. (1) The Commissioner may—

15 (a) if the total period of imprisonment to be served by a prisoner under one or more sentences is less than two years; or

(b) on the authority of the State President or of the Minister granted under any provision of any law in respect of a prisoner serving any period of imprisonment,

20 and irrespective of whether the imprisonment was imposed with or without the option of a fine, release such prisoner before the expiration of the period in question either on probation or on parole for such period and on such conditions as may be specified in the warrant of release.

25 (2) If any prisoner so released either on probation or on parole completes the period thereof without breaking any condition of the release, he shall no longer be deemed to be liable to any punishment in respect of the conviction upon which he was sentenced.”

30 11. The following section is hereby substituted for section 68 of the principal Act:

Substitution of section 68 of Act 8 of 1959, as amended by section 20 of Act 75 of 1965, section 50 of Act 70 of 1968 and section 2 of Act 54 of 1979.

35 “Conditions in respect of release on probation or parole. 68. (1) The Commissioner may, in a case contemplated in section 67 (1) (a), at any time and, in a case contemplated in section 67 (1) (b), on the authority of the Minister alter or cancel any conditions specified in the warrant of release in question.

40 (2) If the Commissioner is satisfied that any prisoner has, before the expiration of the period of release either on probation or on parole, failed to observe any condition of his release either on probation or on parole, he may issue a warrant for the arrest of that prisoner, which may be executed by any peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and which shall serve as authority for the prisoner to be detained in prison until lawfully discharged or released therefrom.”

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12. This Act shall be called the Prisons Amendment Act, 1980. Short title.