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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 2075.

23 September 1987

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

No. 55 of 1987: Mental Health Amendment Act, 1987.

No. 2075.

23 September 1987

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

No. 55 van 1987: Wysigingswet op Geestesgesondheid, 1987.

Act No. 55, 1987

MENTAL HEALTH AMENDMENT ACT, 1987

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 Mental Health Act, 1973, so as to alter obsolete designations; to authorize the Minister of Justice to assign powers or duties entrusted to him in terms of the said Act; and to grant leave to President's patients to be absent from institutions or places where they are being detained; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 9 September 1987.)

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

Amendment of section 1 of Act 18 of 1973, as amended by section 1 of Act 10 of 1978, section 1 of Act 38 of 1981 and section 1 of Act 3 of 1984.

1. Section 1 of the Mental Health Act, 1973, is hereby amended—

(a) by the substitution for the definition of "Director-General" of the following definition:

"'Director-General' means the Director-General: National Health and [Welfare] Population Development"; and

(b) by the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister of National Health and [Welfare] Population Development, except—

(i) in sections 28 and 30 to 41 inclusive, where it means the Minister of Justice; or 15

(ii) in section 74A, where it means the Minister of National Health and Population Development or the Minister of Justice, as the case may be;"

Insertion of section 35A in Act 18 of 1973.

2. The following section is hereby inserted after section 35 of 20 the Mental Health Act, 1973:

"Leave to President's patients to be absent from certain institutions or places.

35A. (1) Notwithstanding the order under which a President's patient is being detained, the superintendent of the institution or the person in charge of the place where that President's patient is being detained may in accordance with the prescribed conditions grant leave to that President's patient to be absent from any such institution or place, as the case may be. 25

(2) Leave granted under subsection (1)— 30
(a) may at any time be cancelled by the relevant superintendent or person; and

(b) shall be cancelled by any such superintendent or person if the Director-General so directs.

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(3) On any such cancellation the relevant superintendent or person shall direct the President's patient concerned to return to the institution or place in respect of which leave to be absent has been granted to him.

(4) Any President's patient who has been granted leave under subsection (1) to be absent from the institution or place where he is being detained and who—

- (a) at the expiry of such leave fails to be back at any such institution or place, as the case may be; or
 (b) after he has been directed to return in terms of subsection (3), fails to return forthwith to any such institution or place, as the case may be, shall, for the purposes of sections 64 and 70, be deemed to have escaped from any such institution or place, as the case may be.”

Amendment of section 74 of Act 18 of 1973.

3. (1) Section 74 of the Mental Health Act, 1973, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any order, warrant or document which may be issued by the Minister or the Minister of Justice, as the case may be, under this Act shall be valid and of force if signed by an officer in the public service designated thereto by the Minister concerned by notice in the *Gazette*, and shall, if so signed, be proof in any court of law and in any public office and for any other relevant purpose that it was issued under the provisions of this Act.”

(2) Subsection (1) shall be deemed to have come into operation on 22 August 1975.

Amendment of section 74B of Act 18 of 1973, as inserted by section 7 of Act 10 of 1978 and amended by section 6 of Act 38 of 1981.

4. Section 74B of the Mental Health Act, 1973, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Where—

(a) the Minister deems it necessary for the proper exercise of any power or performance of any duty [under] conferred upon or assigned to him by this Act, he may in writing authorize the Director-General or any other officer in the Department of National Health [Welfare] and [Pensions] Population Development to exercise such power or perform such duty, except the power to make regulations;

(b) the Minister of Justice deems it necessary for the proper exercise of any power or performance of any duty conferred upon or assigned to him by this Act, he may in writing authorize the Director-General: Justice or any other officer in the Department of Justice to exercise such power or perform such duty.”; and

(b) by the substitution for subsection (2) of the following subsection:

“(2) The—

(a) Director-General may in writing authorize any officer in the Department of National Health [Welfare] and [Pensions] Population Development; or

(b) Director-General: Justice may in writing authorize any officer in the Department of Justice,

to exercise or perform in general or in a particular case or in cases of a particular nature, any power or duty

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conferred **[or imposed on the Director-General]** upon or assigned to him by or under this Act.”.

Short title.

5. This Act shall be called the Mental Health Amendment Act, 1987.