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# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 1167.

1 Julie 1977.

No. 1167.

1 July 1977.

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

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

No. 88 van 1977: Wysigingswet op Gevangnisse, 1977.

No. 88 of 1977: Prisons Amendment Act, 1977.

# ACT

To amend the provisions of the Prisons Act, 1959, relating to definitions; and to the appointment of members of Prison Boards; to provide for the establishment of hospital prisons for psychopaths; for the reception and detention of mentally ill persons at prisons; for the sketching and photographing of prisoners under certain circumstances; and for the publication of sketches and photographs of prisoners; to prohibit in certain circumstances the publication of certain writings, statements, life stories or biographical sketches of prisoners; to prohibit the giving or receipt of any remuneration or benefit in respect of the disclosure or publication of certain writings, statements, life stories or biographical sketches of prisoners; and to increase the penalties for certain offences; to amend the provisions of the said Act relating to the training and treatment of and the performance of work by certain mentally ill prisoners; and to the procurement of necessaries by mentally ill prisoners; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)  
(Assented to 17 June 1977.)*

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

Amendment of section 1 of Act 8 of 1959, as amended by section 1 of Act 75 of 1965.

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 "farm colony" of the following definition:  
"hospital prison for psychopaths" means a prison established under section 20 (1) (dA);";
- (b) by the insertion after the definition of "member of the Prisons Service" of the following definition:  
"mentally ill" means mentally ill as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);";
- (c) by the insertion after the definition of "non-white prisoner" of the following definitions:  
"photograph" includes any cinematograph film, any picture intended for exhibition through the medium of a mechanical device, and any film cassette, magnetic tape cassette or video-plate;  
"President's patient" means a President's patient as defined in section 1 of the Mental Health Act, 1973;";
- (d) by the substitution for the definition of "prisoner" of the following definitions:  
"prisoner" means any person, whether convicted or not, who is detained in custody in any prison or who is being transferred in custody or is en route in

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custody from one prison to another prison and for the purposes of the provisions of section 44 (1) (e)

'prisoner' means—

(a) any person who, for the purposes of imprisonment or a death sentence imposed upon him or as a President's patient, is being detained in custody within or outside any prison;

(b) the corpse of any person referred to in paragraph (a);

'psychopath' means a psychopath as defined in section 1 of the Mental Health Act, 1973;

'psychopathic disorder' means a psychopathic disorder as defined in section 1 of the Mental Health Act, 1973;";

(e) by the insertion after the definition of "release on probation" of the following definition:

"'take', in relation to any cinematograph film, picture, film cassette, magnetic tape cassette or video-plate referred to in the definition of 'photograph', means produce in any manner;";

Amendment of section 5 of Act 8 of 1959, as amended by section 1 of Act 9 of 1971.

2. Section 5 (3) of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

"(a) A prison 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."

Amendment of section 20 of Act 8 of 1959.

3. Section 20 (1) of the principal Act is hereby amended by the insertion after paragraph (d) of the following paragraph:

"(dA) of the type known as hospital prisons for psychopaths at which prisoners are detained who—  
(i) have been certified as psychopaths in terms of the Mental Health Act, 1973; or  
(ii) apparently are suffering from psychopathic disorders and have been referred for observation in terms of any law relating to mentally ill persons;";

Amendment of section 27 of Act 8 of 1959.

4. Section 27 (2) of the principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph:

"(d) in the case of a President's patient or an alleged mentally ill person, upon production to him of an order authorizing or commanding the detention of that President's patient or person, and issued under the provisions of any law for the detention of mentally ill persons: Provided that, anything to the contrary notwithstanding in any law relating to mentally ill persons, no person shall be received at any prison by reason only that he is alleged to be a mentally ill person, if there is an institution, as defined in section 1 of the Mental Health Act, 1973, or a public hospital (other than a hospital used exclusively for infectious diseases) in the district in which such prison is situated;";

Substitution of section 34 of Act 8 of 1959.

5. The following section is hereby substituted for section 34 of the principal Act:

"Mental cases.

34. (1) A prisoner who, while serving a sentence of imprisonment, is removed to an institution, as defined in section 1 of the Mental Health Act, 1973, or a hospital prison for psychopaths shall, as soon as he is fit for discharge therefrom, be returned by the authorities of such institution or hospital prison for psychopaths, as the case may be, to complete the

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sentence which was interrupted by his removal to such institution or hospital prison for psychopaths.

(2) The period during which such prisoner was detained in an institution referred to in subsection (1) or a hospital prison for psychopaths may, on the authority of the Minister, be reckoned as part of his sentence of imprisonment."

Substitution of section 44 of Act 8 of 1959, as amended by section 12 of Act 75 of 1965.

6. (1) The following section is hereby substituted for section 44 of the principal Act:

"Penalty for loitering in vicinity of prison, etc.

44. (1) Any person who—
- (a) is found loitering on any prison reserve or on any prison property or within one hundred metres of any prison or any other place where prisoners may be for the purpose of imprisonment or labour or within one hundred metres of any burial referred to in section 35 (4) (b) and who fails to depart therefrom upon being ordered so to do by any member of the Prisons Service or of the South African Police Force;
  - (b) without lawful authority holds or attempts to hold any communication with any prisoner;
  - (c) wilfully rides, drives or leads any animal or vehicle through any group of prisoners outside a prison;
  - (d) in any manner wilfully interferes with any prisoner or group of prisoners;
  - (e) without the authority in writing of the Commissioner—
    - (i) makes a sketch or takes a photograph of any prison, portion of a prison or any burial referred to in section 35 (4) (b);
    - (ii) publishes or causes to be published in any manner whatsoever any sketch or photograph of any prison, portion of a prison or any burial referred to in section 35 (4) (b);
    - (iii) makes a sketch or takes a photograph of any prisoner or group of prisoners unless it was made or taken—
      - (aa) at any court, or on any premises adjacent thereto and used in connection therewith, in which such prisoner or group of prisoners appeared as accused; and
      - (bb) at the time of such appearance;
    - (iv) publishes or causes to be published in any manner whatsoever any sketch or photograph of any prisoner or group of prisoners unless it is a sketch or photograph—
      - (aa) permitted to be made or taken in accordance with subparagraph (iii); or
      - (bb) made or taken before the arrest of such prisoner or group of prisoners, and published or caused to be published within 30 days after the date on which such prisoner or group of prisoners in respect of any offence were convicted or acquitted by any court;
  - (f) publishes or causes to be published in any manner whatsoever any false information concerning the behaviour or experience in prison of any prisoner or ex-prisoner or concerning the administration of any prison, knowing the same to be false, or without taking reasonable steps to verify such information (the onus of proving that

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reasonable steps were taken to verify such information being upon the accused);  
(g) without the authority in writing of the Commissioner—

(i) publishes or causes to be published in any manner whatsoever any writing, statement, life story or biographical sketch, or any portion thereof, of a prisoner concerning the offence as a result of which he became a prisoner, unless the writing, statement, life story or biographical sketch in question or the relevant portion thereof, as the case may be, was admitted in evidence at the trial of that prisoner;

(ii) at any time received or gave any remuneration or benefit whatsoever in respect of the disclosure or publication of any writing, statement, life story or biographical sketch, or any portion thereof, referred to in subparagraph (i),

shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or, in default of payment, to imprisonment for a period not exceeding two years or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

(2) The court convicting any person of an offence under—

(a) subsection (1) (e) (i) or (iii) may, if it thinks fit, declare the sketches or photographs in question and the negatives from which such photographs were taken to be forfeited to the State;

(b) subsection (1) (g) (ii) by reason of his having received any remuneration or benefit in respect of the disclosure or publication in question, shall declare such remuneration or benefit to be forfeited to the State, and such forfeiture shall have the effect of, and may be executed as if it were, a civil judgment in favour of the State Revenue Fund.”

(2) Any remuneration or benefit whatsoever received after 14 November 1974 but before the date of commencement of this Act, by any person in respect of the disclosure or publication of any writing, statement, life story or biographical sketch, or any part thereof, of any prisoner concerning the offence as a result of which he became a prisoner, is hereby declared forfeited to the State, and may be recovered by the Minister by action in any competent court.

Substitution of section 52 of Act 8 of 1959.

7. The following section is hereby substituted for section 52 of the principal Act:

“Special jurisdiction of magistrates in respect of trial of offences and forfeiture of remuneration or benefit. 52. Anything to the contrary notwithstanding in any law relating to magistrates’ courts, a magistrate shall have jurisdiction—

(a) to try any offence under this Act and to impose any penalty prescribed by this Act;

(b) irrespective of the amount or value of any remuneration or benefit referred to in section 44 (1) (g) (ii), to declare such remuneration or benefit to be forfeited to the State in terms of section 44 (2) (b).”

Amendment of section 77 of Act 8 of 1959, as amended by section 16 of Act 62 of 1973.

8. The following section is hereby substituted for section 77 of the principal Act:

“Training, treatment and labour of prisoners. 77. Every prisoner sentenced to imprisonment and detained in a prison, including a hospital prison for psychopaths, shall, subject to the provisions of this Act and subject also to any special order of the court,

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be employed, trained and treated in such manner as the Commissioner may determine, and such a prisoner shall at all times perform such labour, tasks and other duties as may be assigned to him for the purpose of such employment, training or treatment or for any other purpose connected with such prison, by any member of the Prisons Service.”.

Amendment of section 81 of Act 8 of 1959.

9. Section 81 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsections:

“(2) Alleged mentally ill or epileptic prisoners received into a prison as aforesaid shall only be compelled to do such work as the medical officer may prescribe.

(3) A President's patient detained in a hospital prison for psychopaths shall receive such treatment and may be compelled to perform such work as the Commissioner may prescribe, unless the medical officer has certified that such treatment or the performance of such work is injurious to the health of such President's patient.”.

Amendment of section 82 of Act 8 of 1959, as amended by section 13 of Act 62 of 1966.

10. Section 82 of the principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(c) alleged mentally ill prisoners; and”.

Short title.

11. This Act shall be called the Prisons Amendment Act, 1977.