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THE PRESIDENCY

No. 1358

14 December 2001

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

No. 32 of 2001: Correctional Services Amendment Act, 2001.

DIE PRESIDENSIE

No. 1358

14 Desember 2001

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

No. 32 van 2001: Wysigingswet op Korrektiewe Dienste, 2001.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
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- Words underlined with a solid line indicate insertions in existing enactments.
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*(English text signed by the President.)
(Assented to 7 December 2001.)*

ACT

To amend the Correctional Services Act, 1998, so as to insert certain definitions and substitute others; to further regulate, in relation to prisoners, custody, detention, accommodation, medical examinations, searches, nutrition, disciplinary proceedings, the use of force, non-lethal incapacitating devices and firearms on prisoners, labour, non-compliance of community corrections, the length and form of sentences and the disposal of unclaimed property; to further regulate the composition and functions of Correctional Supervision and Parole Boards; to provide afresh for the object of the Judicial Inspectorate; to further regulate the functions of the Inspecting Judge; to amplify the functions of the Commissioner with regard to internal service evaluation so as to include the investigation of theft, fraud, corruption and other dishonest practices or irregularities in the Department; to provide that the Commissioner may approve the establishment of canteens for use by officials and other persons; to amplify and redefine the Minister's powers to make regulations; to provide for matters with regard to which the Commissioner may issue orders; to provide afresh for transitional provisions with regard to prisoners serving particular sentences; and to effect textual alterations; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 111 of 1998

1. Section 1 of the Correctional Services Act, 1998 (hereinafter referred to as the principal Act), is hereby amended—

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(a) by the substitution for the definition of “Amenities” of the following definition:

“‘amenities’ means [—(a)] recreational and other activities, diversions or privileges [prescribed by regulation; and (b) with reference to their restriction as a penalty for disciplinary infringements, only those rights granted beyond the mandatory minimum stipulated in this Act;] which are granted to prisoners in addition to what they are entitled to as of right and in terms of this Act and include—

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- (a) exercise;
- (b) contact with the community;
- (c) reading material;
- (d) recreation; and
- (e) incentive schemes;”;

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ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.
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(Engelse teks deur die President geteken.)
(Goedgekeur op 7 Desember 2001.)

WET

Tot wysiging van die Wet op Korrektiewe Dienste, 1998, ten einde sekere woordomskrywings in te voeg en ander te vervang; met betrekking tot gevangenes, bewaking, aanhouding, akkommodasie, mediese ondersoek, visentering, voeding, die dissiplinêre verrigtinge, die gebruik van geweld, nie-dodelike buiteaksiestellende toestelle en vuurwapens op gevangenes, arbeid, nie-nakoming van gemeenskapskorreksies, die lengte en formaat van vonnisse en die beskikking oor onopgeëiste besittings verder te reël; die samestelling en werksaamhede van Korrektiewe Toesig- en Paroolrade verder te reël; opnuut vir die oogmerk van die Regterlike Inspektoraat voorsiening te maak; die werksaamhede van die Inspekteerde Regter verder te reël; die werksaamhede van die Kommissaris uit te brei aangaande interne diensevaluering om sodoende die onderzoek van diefstal, bedrog, korruksie en ander oneerlike praktyke of onreëlmatighede in die Departement in te sluit; voorsiening daarvoor te maak dat die Kommissaris die vestiging van winkels vir gebruik deur beampies en ander persone kan goedkeur; die Minister se bevoegdhede om regulasies uit te vaardig, uit te brei en opnuut te omskryf; voorsiening te maak vir aangeleenthede waaroor die Kommissaris orders mag uitreik; opnuut voorsiening te maak vir oorgangsbeplatings aangaande gevangenes wat bepaalde vonnisse uitdien; en wysigings aan die teks aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:

Wysiging van artikel 1 van Wet 111 van 1998

1. Artikel 1 van die Wet op Korrektiewe Dienste, 1998 (hierna die Hoofwet genoem), word hierby gewysig—

(a) deur die volgende omskrywing na die omskrywing van "dissiplinêre beampie" in te voeg:

"'gemagtigde beampie' beteken 'n korrektiewe beampie wat deur 'n Gevangenishoof gemagtig is om dissiplinêre verrigtings te lei soos beoog in artikel 24;"

(b) deur die omskrywing van "geriewe" deur die volgende omskrywing te vervang:

"'geriewe' beteken [— (a)] ontspannings- en ander aktiwiteite, afleidings of voorregte [voorgeskryf deur regulasie; en (b) met verwysing na die beperking daarvan as 'n strafmaatreël vir dissiplinêre oortredings, slegs daardie regte meer as die verpligte minimum soos bepaal in hierdie Wet;] wat aan gevangenes verleen

- (b) by the insertion after the definition of "Assistants" of the following definition:
 " 'authorised official' means a correctional official authorised by a Head of Prison to conduct disciplinary proceedings as contemplated in section 24;";
- (c) by the substitution for the definition of "Commissioner" of the following definition:
 " 'Commissioner' means the Commissioner of Correctional Services, [appointed under] contemplated in section 3(3);";
- (d) by the substitution for the definition of "Controller" of the following definition:
 " 'Controller' means a [senior] correctional official on or above the post level of senior correctional official in the employ of the Department and employed under section 105;";
- (e) by the insertion after the definition of "Director" of the following definition:
 " 'disability' means a physical or mental condition which prevents a prisoner from operating in an environment developed for persons without such an impairment, and includes—
 (a) deafness;
 (b) dumbness;
 (c) paraplegia;
 (d) quadriplegia;
 (e) non-certifiable mental conditions;
 (f) blindness or extreme impairment of vision;";
- (f) by the deletion of the definition of "senior correctional official";
- (g) by the substitution for the definition of "Temporary Manager" of the following definition:
 " 'Temporary Manager' means a [senior] correctional official on or above the post level of senior correctional official in the employ of the Department appointed for the purposes referred to in section 112;";
- (h) by the insertion after the definition of "Temporary Manager" of the following definition:
 " 'this Act' includes the regulations and orders promulgated under this Act;".

Amendment of section 3 of Act 111 of 1998

2. Section 3 of the principal Act is hereby amended—
 (a) by the deletion of the word "and" at the end of subsection (5)(f) and by the substitution in subsection (5) for paragraph (g) of the following paragraph:
 "(g) appoint, remunerate, promote, transfer, discipline or dismiss correctional officials in accordance with [the provisions of] this Act, [and] the Labour Relations Act and the Public Service Act; and"; and
- (b) by the addition to subsection (5) of the following paragraph:
 "(h) enter into collective agreements as provided for in the Labour Relations Act pertaining to matters within his or her authority.".

Amendment of section 4 of Act 111 of 1998

3. Section 4 of the principal Act is hereby amended by the substitution in subsection (2) for paragraphs (b) and (c) of the following paragraphs, respectively:
- "(b) The duties and restrictions imposed on prisoners to ensure safe custody by maintaining security and good order must be applied in [such] a manner that conforms with their purpose and [do] which does not affect the prisoner to a greater degree or for a longer period than necessary.
- (c) The minimum rights of prisoners entrenched in this Act must not be violated or restricted for disciplinary or any other purpose, but the Commissioner may restrict, suspend or revise amenities for prisoners of different categories.". 50

- word bykomend tot dit wat hulle as 'n reg en ingevolge hierdie Wet toekom en sluit in—
- (a) oefening;
 - (b) kontak met die gemeenskap;
 - (c) leesmateriaal;
 - (d) ontspanning; en
 - (e) aansporingskemas;";
- (c) deur die volgende omskrywing na die omskrywing van "Grondwet" in te voeg:
- "hierdie Wet sluit die regulasies en orders uitgevaardig kragtens hierdie Wet in;"
- (d) deur die omskrywing van "Kommissaris" deur die volgende omskrywing te vervang:
- "Kommissaris' beteken die Kommissaris van Korrektiewe Dienste, [aangestel kragtens] beoog in artikel 3(3);";
- (e) deur die omskrywing van "Kontroleur" deur die volgende omskrywing te vervang:
- "Kontroleur' beteken 'n [senior] korrektiewe beampte op of bo die posvlak van senior korrektiewe beampte in diens van die Departement en aangestel kragtens artikel 105;";
- (f) deur die volgende omskrywing na die omskrywing van "Onafhanglike Gevangenisbesoeker" in te voeg:
- "ongeskiktheid' beteken 'n fisiese of geestelike toestand wat 'n gevangene verhoed om in 'n omgewing te werk wat vir persone sonder sodanige benadeling ontwikkel is, en sluit in—
- (a) doofheid;
 - (b) stomheid;
 - (c) paraplegie;
 - (d) kwadriplegie;
 - (e) nie-sertifiseerbare geestestoestande;
 - (f) blindheid of uiterste aantasting van visie;"

(g) deur die omskrywing van "senior korrektiewe beampte" te skrap;

(h) deur die omskrywing van "Tydelike Bestuurder" deur die volgende omskrywing te vervang:

"Tydelike Bestuurder' beteken 'n [senior] korrektiewe beampte op of bo die posvlak van senior korrektiewe beampte in diens van die Departement aangestel vir die doeleindes in artikel 112 bedoel;".

Wysiging van artikel 3 van Wet 111 van 1998

2. Artikel 3 van die Hoofwet word hierby gewysig—

- (a) deur die woord "en" aan die einde van subartikel (5)(f) te skrap en deur paragraaf (g) deur die volgende paragraaf te vervang:
- "(g) om korrektiewe beampies aan te stel, te vergoed, te bevorder, te verplaas, te dissiplineer of te ontslaan [in terme van] ooreenkomstig [die bepalings van] hierdie Wet, [en] die Wet op Arbeidsverhoudinge en die Staatsdienswet; en"; en
- (b) deur die volgende paragraaf by subartikel (5) te voeg:
- "(h) om kollektiewe ooreenkomste aan te gaan soos voorsien in die Wet op Arbeidsverhoudinge aangaande sake wat binne sy of haar gesag val.". 45

Wysiging van artikel 4 van Wet 111 van 1998

3. Artikel 4 van die Hoofwet word hierby gewysig deur in subartikel (2) paragrawe (b) en (c) deur onderskeidelik die volgende paragrawe te vervang:

"(b) Die pligte en beperkinge wat gevangenes opgelê word om veilige bewaking te verseker deur die handhawing van sekuriteit en goeie orde moet op [so] 'n wyse toegepas word [dat dit] wat in ooreenstemming met die doel daarvan is en wat nie die gevangene in 'n groter mate of vir 'n langer tydperk as wat nodig is, beïnvloed nie.

(c) Die minimum regte van gevangenes in hierdie Wet verskans, mag nie aangetas of om dissiplinêre of enige ander redes beperk word nie, maar die

Amendment of section 5 of Act 111 of 1998

4. Section 5 of the principal Act is hereby amended by the substitution for subsection 1 of the following subsection:

“(1) The Minister may, by notice in the *Gazette*, establish and review the establishment of prisons for—

- (a) the detention and treatment of prisoners;
- (b) particular purposes in relation to prisoners; or
- (c) particular categories of prisoners.”.

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Amendment of section 6 of Act 111 of 1998

5. Section 6 of the principal Act is hereby amended by the substitution for subsection 10 (5) of the following subsection:

“(5) As soon as possible after admission, every prisoner must—

- (a) bath or shower; and
- (b) undergo a health status examination, which must include testing for contagious and communicable diseases as defined in the Health Act, 1977 15 (Act No. 63 of 1977), if in the opinion of the medical officer it is necessary to protect or maintain the health of the prisoners or other persons.”.

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Amendment of section 7 of Act 111 of 1998

6. Section 7 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for paragraph (d) of the following 20 paragraph:

“(d) [Further requirements that] The Commissioner may detain prisoners of specific age, health [categories] or security risk categories [must be kept separate must be prescribed by regulation] separately.”; and

- (b) by the addition to subsection (2) of the following paragraphs:

“(e) The Commissioner may accommodate prisoners in single or communal cells depending on the availability of accommodation.

“(f) Where there is a danger of prisoners who are awaiting trial or sentence defeating the ends of justice by their association with other 30 prisoners, the Commissioner must detain them apart.”.

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Amendment of section 8 of Act 111 of 1998

7. Section 8 of the principal Act is hereby amended by the substitution for subsection 5 (5) of the following subsection:

“(5) Food must be well prepared and served at intervals of not less than four and a half hours and not more than six and a half hours, except that there may be an interval of not more than 14 hours between the evening meal and breakfast [during each 24-hour period].”.

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Amendment of section 12 of Act 111 of 1998

8. Section 12 of the principal Act is hereby amended by the substitution in subsection 40 (4) for paragraph (b) of the following paragraph:

“(b) No prisoner may be compelled to undergo medical [examination,] intervention or treatment without informed consent unless failure to submit to such medical [examination,] intervention or treatment will pose a threat to the health of other persons.”.

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Amendment of section 16 of Act 111 of 1998

9. Section 16 of the principal Act is hereby amended by the addition of the following subsections:

Kommissaris mag geriewe vir gevangenes van verskillende kategorieë beperk, opskort of hersien.”.

Wysiging van artikel 5 van Wet 111 van 1998

4. Artikel 5 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Minister kan, by kennisgewing in die *Staatskoerant*, gevangenisse instel en die instelling van gevangenisse hersien vir—
 (a) die aanhouding en behandeling van gevangenes;
 (b) bepaalde doeleinades met betrekking tot gevangenes; of
 (c) bepaalde kategorieë gevangenes.”.

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Wysiging van artikel 6 van Wet 111 van 1998

5. Artikel 6 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Elke gevangene moet so gou as moontlik na opname—
 (a) bad of stort; en
 (b) 'n ondersoek na die stand van sy of haar gesondheid ondergaan, wat 'n toets vir aansteeklike en aanmeldbare siektes soos omskryf in die Wet op Gesondheid, 1977 (Wet No. 63 van 1977), moet insluit, indien dit volgens die mening van die mediese beampete noodsaklik is om die gesondheid van die gevangenes of ander persone te beskerm of te onderhou.”.

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Wysiging van artikel 7 van Wet 111 van 1998

6. Artikel 7 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (2) paragraaf (d) deur die volgende paragraaf te vervang:
 “(d) [Verdere vereistes dat] Die Kommissaris kan gevangenes van spesifieke ouderdomme, [gesondheidskategorieë] gesondheids- of sekuriteitsrisiko-kategorieë, afsonderlik [aangehou moet word, moet deur regulasies voorgeskryf word] aanhou.”; en
 (b) deur by subartikel (2) die volgende paragrawe te voeg:
 “(e) Die Kommissaris kan gevangenes in enkel- of gemeenskaplike selle aanhou, afhangende van die beskikbaarheid van akkommodasie.
 (f) Waar 'n gevvaar bestaan dat verhoorafwagtende gevangenes of gevangenes wat hul vonnis afwag, die regspleging kan verydel deur hul assosiëring met ander gevangenes, moet die Kommissaris hulle afsonderlik aanhou.”.

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Wysiging van artikel 8 van Wet 111 van 1998

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7. Artikel 8 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Voedsel moet goed voorberei word en met tussenposes van nie minder as vier-en-'n-half ure nie en nie meer as ses-en-'n-half ure nie voorgesit word, behalwe dat daar nie 'n tussenpose van [nie met] meer as 14 uur tussen die aandmaaltyd en ontbyt [gedurende elke 24-uur-tydperk] mag wees nie.”.

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Wysiging van artikel 12 van Wet 111 van 1998

8. Artikel 12 van die Hoofwet word hierby gewysig deur in subartikel (4) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) Geen gevangene mag verplig word om 'n mediese [ondersoek,] intervensie of behandeling te ontvang sonder ingeligte toestemming nie tensy versuim om sodanige mediese [ondersoek,] intervensie of behandeling te ontvang 'n bedreiging sal inhoud vir die gesondheid van ander persone.”.

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Wysiging van artikel 16 van Wet 111 van 1998

9. Artikel 16 van die Hoofwet word hierby gewysig deur die volgende subartikels by te voeg:

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“(3) The Department must take measures, in terms of planning, policy and infrastructure, to accommodate prisoners with disabilities in order to enable such prisoners, where practicable, to fully exercise the rights and to enjoy the amenities to which every prisoner is entitled.

(4) The Department must take measures, in terms of planning, policy and infrastructure, in order to create an environment sensitive to the gender of all prisoners.”.

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Amendment of section 20 of Act 111 of 1998

10 10. Section 20 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) A female prisoner may be permitted, subject to such conditions as may be prescribed by regulation, to have her child with her until such child is five years of age.

(2) The Department is responsible for food, clothing, health care as contemplated in section 12 and facilities for the sound development of the child for the period that such child remains in prison.”.

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Amendment of section 21 of Act 111 of 1998

11 20. Section 21 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (c) of the following paragraph:

“(c) if the complaint concerns an alleged assault, ensure that the prisoner undergoes an immediate medical examination and receives the [prescribed] treatment prescribed by the medical officer.”.

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Amendment of section 24 of Act 111 of 1998

12 25. Section 24 of the principal Act is hereby amended by the substitution for subsections (1), (2), (3) and (4) of the following subsections, respectively:

“(1) Disciplinary hearings must be fair and may be conducted either by a disciplinary official, [or] a Head of Prison or an authorised official.

(2) (a) A hearing before a Head of Prison or the authorised official must be conducted informally and without representation.

(b) At such hearing the prisoner must be informed of the allegation against him or her, [and have] whereupon the prisoner has the right to refute the allegation.

(c) The proceedings of a hearing contemplated in paragraph (a) must be recorded in writing by a correctional official.

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(3) Where the hearing takes place before the Head of Prison or the authorised official, the following penalties may be imposed severally or in the alternative:

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(a) [a] A reprimand;

(b) a loss of gratuity for a period not exceeding one month;

(c) restriction of amenities for a period not exceeding seven days.

(4) At a hearing before a disciplinary official a prisoner—

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(a) must be informed of the allegation in writing;

(b) has the right to be present throughout the hearing, but the disciplinary official may order that the accused prisoner be removed and that the hearing continue in his or her absence if, during the hearing, the accused prisoner acts in such a way as to make the continuation of the hearing in his or her presence impracticable;

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(c) has the right to be heard, to cross-examine and to call witnesses; [and]

(d) has the right to be represented by a legal practitioner of his or her choice at his or her own expense, unless a request to be represented by a particular legal practitioner would cause an unreasonable delay in the finalisation of the hearing in which case the prisoner may be instructed to obtain the services of another legal practitioner; and

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(e) has the right to be given reasons for the decision.”.

“(3) Die Departement moet, met betrekking tot beplanning, beleid en infrastruktuur, maatreëls tref om gevangenes met gestremdhede te akkommodeer ten einde sodanige gevangenes, waar moontlik, in staat te stel om die regte en die geriewe waarop elke gevangene geregtig is ten volle uit te oefen en te geniet.

(4) Die Departement moet, met betrekking tot beplanning, beleid en infrastruktuur, maatreëls tref ten einde 'n omgewing te skep wat sensitief is teenoor die geslag van alle gevangenes.”.

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Wysiging van artikel 20 van Wet 111 van 1998

10. Artikel 20 van die Hoofwet word hierby gewysig deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te vervang:

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“(1) 'n Vroulike gevangene mag toegelaat word, onderworpe aan die voorwaardes wat by regulasie voorgeskryf word, om haar kind tot op die ouderdom van vyf jaar by haar te hê.

(2) Die Departement is verantwoordelik om voedsel, klerasie, gesondheidsorg soos beoog in artikel 12 en fasilitate vir die gesonde ontwikkeling van die kind vir die tydperk wat die kind in die gevangenis is, te voorsien.”.

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Wysiging van artikel 21 van Wet 111 van 1998

11. Artikel 21 van die Hoofwet word hierby gewysig deur in subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang:

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“(c) indien die klاغte betrekking het op 'n beweerde aanranding, verseker dat die gevangene onmiddellik 'n mediese ondersoek ondergaan en die [voorgeskrewe] behandeling ontvang wat deur die mediese beampete voorgeskryf word.”.

Wysiging van artikel 24 van Wet 111 van 1998

12. Artikel 24 van die Hoofwet word hierby gewysig deur subartikels (1), (2), (3) en (4) deur onderskeidelik die volgende subartikels te vervang:

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“(1) Dissiplinêre verhore moet billik wees en mag deur [6f] 'n dissiplinêre beampete, [6f] 'n Gevangenishoof of 'n gemagtigde beampete waargeneem word.

(2) (a) 'n Verhoor voor 'n Gevangenishoof of die gemagtigde beampete moet informeel en sonder verteenwoordiging waargeneem word.

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(b) By so 'n verhoor moet die gevangene ingelig word oor die aanklag teen hom of haar [en het hy of sy] waarop die gevangene die reg het om die aanklag te weerlê.

(c) Die verrigtinge tydens 'n verhoor beoog in paragraaf (a) moet deur 'n korrekture beampete op skrif vasgelê word.

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(3) Waar die verhoor voor die Gevangenishoof of die gemagtigde beampete plaasvind, mag een of meer van die volgende strafmaatreëls afsonderlik of in die alternatief opgelê word:

(a) 'n [berispeling] Berispeling;

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(b) 'n verlies van gratifikasie vir 'n tydperk van hoogstens een maand;

(c) beperking op geriewe vir 'n tydperk van hoogstens sewe dae.

(4) By 'n verhoor voor 'n dissiplinêre beampete—

(a) moet 'n gevangene skriftelik van die aanklag ingelig word;

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(b) het 'n gevangene die reg om deurgaans teenwoordig te wees tydens die verhoor, maar die dissiplinêre beampete kan beveel dat die aangeklaagde gevangene verwyder word en dat die verhoor in sy of haar afwesigheid voortgaan indien die aangeklaagde gevangene gedurende die verhoor op so 'n wyse optree dat die voortsetting van die verhoor in sy of haar teenwoordigheid onuitvoerbaar is;

(c) het 'n gevangene die reg om aangehoor te word, om kruisondervraging toe te pas en om getuies te roep; [en]

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(d) het die gevangene die reg om op sy of haar eie onkoste deur 'nregspraktisy van sy of haar keuse verteenwoordig te word, tensy 'n versoek om deur 'n besondereregspraktisy verteenwoordig te word 'n onredelike vertraging in die afhandeling van die verhoor sal veroorsaak, in welke geval die gevangene gelas kan word om die dienste van 'n anderregspraktisy te bekom; en

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(e) het 'n gevangene die reg om van redes verskaf te word vir die besluit.”.

Amendment of section 26 of Act 111 of 1998**13.** Section 26 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“In order to achieve [these] the objectives referred to in subsection (1) and subject to the limitations outlined in sections 27 to 35, a correctional official may—”;

- (b) by the deletion in subsection (2), of paragraph (c); and

- (c) by the addition of the following subsection:

“(3) In order to achieve the objectives referred to in subsection (1) and subject to the limitations outlined in sections 27 to 35, the Commissioner may classify and allocate accommodation to prisoners.”.

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Amendment of section 27 of Act 111 of 1998**14.** Section 27 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for paragraph (e) of the following paragraph:

“(e) by detaining a prisoner [in a manner prescribed by regulation] for the recovery by the normal excretory process of an object that may pose a danger to [himself or herself] that prisoner, to any correctional official, to any other person or to the security of the prison.”; and

- (b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“A search of the person of a prisoner contemplated in subsection (2) is subject to the following restrictions.”.

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Amendment of section 28 of Act 111 of 1998**15.** Section 28 of the principal Act is hereby amended—

- (a) by the deletion of the word “and” at the end of subsection (1)(d);

- (b) by the insertion in subsection 1(e), after the word “prisoner”, where it occurs for the second time, of the expression “; and”; and

- (c) by the addition to subsection (1) of the following paragraph:

“(d) the attachment of an electronic or other device to the body of the prisoner in the manner prescribed by regulation.”.

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Amendment of section 30 of Act 111 of 1998**16.** Section 30 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Segregation of a prisoner for a period of time, which may be for part of or the whole day and which may include detention in a single cell, other than normal accommodation in a single cell as contemplated in section 7(2)(e), is permissible.”; and

- (b) by the substitution in subsection (1) for paragraph (f) of the following paragraph:

“(f) if at the request of the [police] South African Police Service, the Head of Prison considers that it is in the interests of the administration of justice.”.

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Amendment of section 31 of Act 111 of 1998**17.** Section 31 of the principal Act is hereby amended by the addition of the following subsection:

“(7) Mechanical restraints in addition to handcuffs or leg-irons may only be used on prisoners when outside their cells.”.

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Amendment of section 32 of Act 111 of 1998**18** Section 32 of the principal Act is hereby amended—

Wysiging van artikel 26 van Wet 111 van 1998

- 13.** Artikel 26 van die Hoofwet word hierby gewysig—
 (a) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “Ten einde [hierdie] die oogmerke bedoel in subartikel (1) te bereik en onderworpe aan die beperkings beskryf in artikels 27 tot 35, mag 'n korrektiewe beampte—”; 5
 (b) deur in subartikel (2) paragraaf (c) te skrap; en
 (c) deur die volgende subartikel by te voeg:
 “(3) Ten einde die oogmerke bedoel in subartikel (1) te bereik en onderworpe aan die beperkings beskryf in artikels 27 tot 35 mag die Kommissaris akkommodasie klassifiseer en toeken aan gevangenes.”. 10

Wysiging van artikel 27 van Wet 111 van 1998

- 14.** Artikel 27 van die Hoofwet word hierby gewysig—
 (a) deur in subartikel (2) paragraaf (e) deur die volgende paragraaf te vervang:
 “(e) deur die aanhouding van 'n gevangene [op 'n wyse wat voorgeskryf word deur regulasie] vir die herwinning, deur middel van die normale uitskeidingsproses, van 'n voorwerp wat 'n gevaar vir [homself of haarsel] daardie gevangene, enige korrektiewe beampte, enige ander persoon of die sekuriteit van die gevangeris mag inhou.”; en 15
 (b) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “Die visentering van die persoon van 'n gevangene beoog in subartikel (2) is onderworpe aan die volgende beperkings.”. 20
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Wysiging van artikel 28 van Wet 111 van 1998

- 15.** Artikel 28 van die Hoofwet word hierby gewysig—
 (a) deur die woorde “en” aan die einde van subartikel (1)(d) te skrap;
 (b) deur in subartikel (1)(e), na die woorde “is” die uitdrukking “; en” in te voeg; 30
 (c) deur die volgende paragraaf by subartikel (1) te voeg:
 “(f) die aanheg van 'n elektroniese of ander toestel aan die liggaam van die gevangene op die wyse by regulasie voorgeskryf.”. 35

Wysiging van artikel 30 van Wet 111 van 1998

- 16.** Artikel 30 van die Hoofwet word hierby gewysig—
 (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “Afsondering van 'n gevangene vir 'n tydperk, wat vir 'n gedeelte van die dag of die hele dag mag wees, en wat aanhouding in 'n enkelsele mag insluit, anders as gewone akkommodasie in 'n enkelsele soos beoog in artikel 7(2)(e), is toelaatbaar—”; en 40
 (b) deur in subartikel (1) paragraaf (f) deur die volgende paragraaf te vervang:
 “(f) indien, as gevolg van die versoek van die [polisie] Suid Afrikaanse Polisiediens, die Gevangenishoof dit in die belang van die uitvoering van die regsgedienstes dienstig ag.”. 45

Wysiging van artikel 31 van Wet 111 van 1998

- 17.** Artikel 31 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:
 “(7) Meganiese dwangmiddele mag slegs bykomstig tot handboeie of voetboeie op gevangenes gebruik word wanneer hulle buite hulle selle is.”. 50

Wysiging van artikel 32 van Wet 111 van 1998

- 18.** Artikel 32 van die Hoofwet word hierby gewysig—

Act No. 32, 2001 CORRECTIONAL SERVICES AMENDMENT ACT, 2001

- (a) by the addition to subsection (1) of the following paragraph:
- “(c) A correctional official may not use force against a prisoner except when it is necessary for—
 (i) self-defence;
 (ii) the defence of any other person;
 (iii) preventing a prisoner from escaping; or
 (iv) the protection of property.”; and
- (b) by the substitution for subsection (5) of the following subsection:
- “(5) If force was used, the prisoner concerned must undergo an immediate medical examination and receive the [prescribed] treatment prescribed by the medical officer.”.

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Amendment of section 33 of Act 111 of 1998**19. Section 33 of the principal Act is hereby amended—**

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) Non-lethal incapacitating devices may only be issued to a correctional official on the authority of the Head of Prison [or the Head of Community Corrections].”; and
- (b) by the addition of the following subsections:
- “(5) Teargas grenades and cartridges fired by firearms or launch-tubes may not be fired or launched directly at a person or into a crowd.
 (6) Whenever a correctional official decides to use teargas he or she must be convinced that its use in the specific situation meets the requirements of minimum and proportionate force as required by section 32(1)(b).
 (7) If a prisoner has been affected by teargas he or she must receive medical treatment as soon as the situation allows.”.

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Substitution of section 34 of Act 111 of 1998**20. The following section is hereby substituted for section 34 of the principal Act:****“Firearms**

- 34.** (1) A firearm may only be issued to a correctional official on the authority of the Head of Prison or the Head of Community Corrections.
- (2) A firearm may only be used by a correctional official specifically trained in its use.
- (3) [A firearm must be used in the manner prescribed by regulation and only when the security of the prison or the safety of prisoners or others is threatened.] Firearms may only be used as a last resort and then only—
 (a) in self-defence;
 (b) in defence of any other person;
 (c) to prevent a prisoner from escaping; or
 (d) when the security of the prison or the safety of prisoners or other persons is threatened.
- (4) Before a firearm is fired, the following procedure must be adhered to, if circumstances permit:
 (a) A verbal warning must be given;
 (b) if the warning is of no effect, a warning shot must be fired;
 (c) if the warnings are of no effect, the line of fire should be directed in such a manner that the probable result will not be a fatal injury.
- (5) Weapons equipped for firing rubber-type ammunition may only be issued to trained correctional officials and then only for training purposes or during emergency situations.

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(a) deur in subartikel (1) die volgende paragraaf by te voeg:

“(c) ‘n Korrektiewe beampete mag nie geweld teen ‘n gevangene gebruik nie behalwe as dit nodig is vir—
 (i) selfverdediging;
 (ii) die verdediging van enige ander persoon;
 (iii) die voorkoming van die onvlugting van ‘n gevangene; of
 (iv) die beskerming van eiendom.”; en

(b) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Indien geweld gebruik is, moet die betrokke gevangene onmiddellik ‘n mediese ondersoek ondergaan en die [voorgeskrewe] behandeling voorgeskryf deur die mediese beampete ontvang.”.

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Wysiging van artikel 33 van Wet 111 van 1998

19. Artikel 33 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Nie-dodelike buiteaksiestellende toestelle mag slegs uitgereik word aan ‘n korrektiewe beampete op die gesag van die Gevangenishoof [of die Hoof van Gemeenskapskorreksies].”; en

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(b) deur die volgende subartikels by te voeg:

“(5) Traangasgranate en traangaspatrone afgevuur deur vuurwapens of lanseerbuise mag nie regstreeks na ‘n persoon of in ‘n skare afgevuur of gelanseer word nie.

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(6) Wanneer ‘n korrektiewe beampete ook al besluit om traangas te gebruik, moet hy of sy daarvan oortuig wees dat die gebruik daarvan in die bepaalde omstandighede aan die vereistes van minimum en proporsionele geweld, soos vereis deur artikel 32(1)(b), voldoen.

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(7) Indien ‘n gevangene deur traangas aangetas is, moet hy of sy so gou as wat die omstandighede dit toelaat mediese behandeling ontvang.”.

Vervanging van artikel 34 van Wet 111 van 1998

20. Artikel 34 van die Hoofwet word hierby deur die volgende artikel vervang:

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“Vuurwapens

34. (1) ‘n Vuurwapen mag slegs uitgereik word aan ‘n korrektiewe beampete op die gesag van die Gevangenishoof of die Hoof van Gemeenskapskorreksies.

(2) ‘n Vuurwapen mag slegs gebruik word deur ‘n korrektiewe beampete wat spesifiek opgelei is in die gebruik daarvan.

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(3) [**‘n Vuurwapen moet gebruik word op die wyse wat deur die regulasies voorgeskryf word wanneer die sekuriteit van die gevangenis of die veiligheid van die gevangenes of ander bedreig word.**] Vuurwapens mag slegs as ‘n laaste uitweg gebruik word en dan slegs—

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(a) ter selfverdediging;
 (b) ter verdediging van enige ander persoon;
 (c) ter voorkoming van die onvlugting van ‘n gevangene;
 (d) wanneer die sekuriteit van die gevangenis of die veiligheid van gevangenes of ander persone bedreig word.

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(4) **Voordat ‘n vuurwapen afgevuur word, moet die volgende prosedure gevolg word, indien die omstandighede dit toelaat:**

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(a) ‘n Mondelingse waarskuwing moet gegee word;
 (b) indien die waarskuwing geen uitwerking het nie, moet ‘n waarskuwingskoot afgevuur word;
 (c) indien die waarskuwings geen uitwerking het nie, moet die skootlyn gerig word op so ‘n wyse dat die waarskynlike resultaat nie ‘n noodlottige besering sal wees nie.

(5) Wapens wat toegerus is om rubbertipe-ammunisie af te vuur, mag slegs aan opgeleide korrektiewe beampetes uitgereik word en dan slegs vir opleidingsdoeleindes of gedurende noedsituasies.

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- (6) (a) Rubber-type ammunition may as a general rule only be fired at a distance of more than 30 metres from a person.
 (b) If such ammunition is fired at less than 30 metres from a person, the line of fire must be directed at the lower body of the person.
 (c) Rubber-type ammunition may not be fired within a building.
 (7) Whenever a firearm is used, its use must be reported in writing and as prescribed by regulation.”.

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Amendment of section 40 of Act 111 of 1998**21. Section 40 of the principal Act is hereby amended—**

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

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“(3) (a) A sentenced prisoner may elect the type of work he or she prefers to perform, if such choice is practicable and in accordance with an appropriate vocational programme.

(b) A child who is a prisoner may only do work for the purposes of training aimed at obtaining skills for his or her development.

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(c) A child who is a prisoner may not be subjected to work if the work that is to be performed is inappropriate for the age of the child or if the work places the child’s educational, physical, mental, moral or social well-being at risk.”; and

(b) by the substitution for subsection (4) of the following subsection:

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“(4) (a) [The] Subject to paragraph (b), the amount of the gratuity that sentenced prisoners receive for their labour, the administration of the gratuity and [their] the prisoners’ conditions of work must be prescribed by regulation.

(b) The amount of the gratuity contemplated in paragraph (a) must be determined by the Commissioner with the concurrence of the Minister of Finance.”.

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Amendment of section 42 of Act 111 of 1998**22. Section 42 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:**

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“(1) At each prison there must be [a] one or more Case Management [Committee] Committees composed of correctional officials as prescribed by regulation.”.

Amendment of section 45 of Act 111 of 1998**23. Section 45 of the principal Act is hereby amended by the addition of the following subsection:**

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“(4) If the medical officer considers it necessary to establish the health status of a prisoner at his or her release, the prisoner must undergo a health status examination which may include testing for contagious and communicable diseases as defined in the Health Act, 1977 (Act No. 63 of 1977).”.

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Substitution of section 49 of Act 111 of 1998**24. The following section is hereby substituted for section 49 of the principal Act:****“Visitors and communication**

49. Subject to restrictions which may be [laid down] prescribed by regulation, unsentenced prisoners may receive visitors and write and receive letters and communicate telephonically.”.

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(6) (a) Rubbertipe-ammunisie mag as 'n algemene reël slegs van 'n afstand van meer as 30 meter vanaf 'n persoon afgewuur word.
 (b) Indien sodanige ammunisie minder as 30 meter vanaf 'n persoon afgewuur word, moet die skootslyn op die onderlyf van die persoon gerig word.
 (c) Rubbertipe-ammunisie mag nie binne 'n gebou afgewuur word nie.
 (7) Wanneer [ook al] 'n vuurwapen ook al gebruik word, moet die gebruik daarvan skriftelik gerapporteer word en soos deur die regulasies voorgeskryf word.”.

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Wysiging van artikel 40 van Wet 111 van 1998

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21. Artikel 40 van die Hoofwet word hierby gewysig—

(a) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) (a) 'n Gevonniste gevangene mag die tipe werk wat hy of sy verkieks om te doen, uitkies, indien sodanige keuse doenlik is en in ooreenstemming met 'n toepaslike beroepsgerigte program is.

(b) 'n Kind wat 'n gevangene is, mag slegs werk doen vir die doeleindes van opleiding wat daarop gerig is om vaardighede te verkry vir sy of haar ontwikkeling.

(c) 'n Kind wat 'n gevangene is, mag nie aan werk onderwerp word indien die werk wat verrig moet word onvanpas is vir die ouderdom van die kind of indien die werk 'n risiko vir die kind se opvoedkundige, fisiese, geestelike, morele of sosiale welsyn inhou nie.”; en

(b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) (a) [Die] Behoudens paragraaf (b) moet die gratifikasie wat gevonniste gevangenes vir hul arbeid ontvang, die administrasie van die gratifikasie en [hul] die gevangenes se werksomstandighede [moet] deur regulasies voorgeskryf word.

(b) Die bedrag van die gratifikasie beoog in paragraaf (a) moet deur die Kommissaris met die instemming van die Minister van Finansies vasgestel word.”.

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Wysiging van artikel 42 van Wet 111 van 1998**22. Artikel 42 van die Hoofwet word hierby gewysig deur subartikel 1 deur die volgende subartikel te vervang:**

“(1) By elke gevangenis moet daar [**'n Gevallebestuurskomitee**] een of meer **Gevallebestuurskomitees** wees wat bestaan uit korrektiewe beampes soos deur die regulasies voorgeskryf word.”.

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Wysiging van artikel 45 van Wet 111 van 1998**23. Artikel 45 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:**

“(4) Indien die mediese beampte dit nodig ag om die gesondheidstand van 'n gevonniste gevangene by sy of haar ontslag vas te stel, moet die gevangene 'n gesondheidstandsondersoek ondergaan, wat 'n toets vir aansteeklike en aanmeldbare siektes soos omskryf in die Wet op Gesondheid, 1977 (Wet No. 63 van 1977) kan insluit.”.

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Vervanging van artikel 49 in Engelse teks van Wet 111 van 1998

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24. Artikel 49 in die Engelse teks van die Hoofwet word hierby deur die volgende artikel vervang:**“Visitors and communication**

49. Subject to restrictions which may be [laid down] prescribed by regulation, unsentenced prisoners may receive visitors and write and receive letters and communicate telephonically.”.

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Amendment of section 58 of Act 111 of 1998

25. Section 58 of the principal Act is hereby amended by the addition to subsection (1) of the following paragraph, the current subsection becoming paragraph (a):

“(b) A Supervision Committee must be managed by correctional officials in the manner prescribed by regulation.”.

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Amendment of section 70 of Act 111 of 1998

26. Section 70 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If the Commissioner is satisfied that a person subject to community corrections has failed to comply with any aspect of the conditions imposed on him or her, or any duty placed upon him or her in terms of any section of this Chapter, the Commissioner—

(a) may, depending on the nature and seriousness of the non-compliance—

[(a)](i) reprimand the person;

[(b)](ii) instruct the person to appear before the court, Correctional Supervision and Parole Board or other body which imposed the community corrections; or

[(c)](iii) issue a warrant for the arrest of such person; and

(b) must, if he or she is satisfied that the person has a valid excuse for not complying with any such condition or duty, instruct that the community corrections be resumed subject to the same conditions or duties applicable to that person.”.

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Amendment of section 73 of Act 111 1998

27. Section 73 of the principal Act is hereby amended—

(a) by the substitution in subsection (6) for paragraph (a) of the following paragraph:

“(a) Subject to the provisions of paragraph (b), a prisoner serving a determinate sentence may not be placed on parole until such prisoner has served either the stipulated non-parole period, or if no non-parole period was stipulated, half of the [rest of the] sentence, but parole must be considered whenever a prisoner has served 25 years of a sentence or cumulative sentences.”; and

(b) by the substitution in subsection (6)(b) for subparagraph (v) of the following subparagraph:

“(v) imprisonment contemplated in section [52(2)] 51 or 52 of the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997), may not be placed on parole unless he or she has served at least four fifths of the term of imprisonment imposed or 25 years, whichever is the shorter, but the court, when imposing imprisonment, may order that the prisoner be considered for placement on parole after he or she has served two thirds of such term.”.

Amendment of section 74 of Act 111 of 1998

28. Section 74 of the principal Act is hereby amended—

(a) by the deletion in subsection (2) of paragraphs (c) and (d);

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

“(e) [two officials] one official of the Department nominated by the Commissioner; and”;

(c) by the substitution for subsection (5) of the following subsection:

“(5) [Five] Three members constitute a quorum for a meeting of a Board and must include the chairperson or vice-chairperson [and an official of the Department of Justice].”; and

(d) by the insertion after subsection (7) of the following subsection:

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Wysiging van artikel 58 van Wet 111 van 1998

25. Artikel 58 van die Hoofwet word hierby gewysig deur die volgende paragraaf by subartikel (1) te voeg, terwyl die bestaande subartikel paragraaf (a) word:

“(b) ’n Toesigkomitee moet deur korrektiewe beampes bestuur word op die wyse voorgeskryf by regulasie.”.

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Wysiging van artikel 70 van Wet 111 van 1998

26. Artikel 70 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Indien die Kommissaris oortuig is dat iemand onderworpe aan gemeenskapskorreksies versuim het om te voldoen aan enige aspek van die voorwaarde aan hom of haar opgelê, of aan enige plig wat op hom of haar geplaas is ingevolge enige artikel van hierdie Hoofstuk—

(a) mag die Kommissaris, afhangende van die aard en erns van die nie-nakoming—

[(a)](i) die persoon berispe; 15

[(b)](ii) die persoon beveel om voor die hof, Korrektiewe Toesig- en Paroolraad of enige ander liggaam wat die gemeenskapskorreksies opgelê het, te verskyn; of

[(c)](iii) ’n lasbrief vir die inhegtenisneming van sodanige persoon uitrek; en 20

(b) moet die Kommissaris, indien hy of sy oortuig is dat die persoon ’n geldige verskoning het vir die nie-nakoming van enige sodanige voorwaarde of plig, opdrag gee dat die gemeenskapskorreksies hervat word onderworpe aan dieselfde voorwaarde of pligte van toepassing op daardie persoon.”.

Wysiging van artikel 73 van Wet 111 van 1998

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27. Artikel 73 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (6) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) Behoudens die bepalings van paragraaf (b) mag ’n gevangene wat ’n bepaalde vonnis uitdien, nie op parool geplaas word nie totdat sodanige gevangene óf die vasgestelde nie-parooltydperk, óf [die res] 30 indien geen nie-parooltydperk vasgestel was nie, die helfte van die vonnis, uitgedien het, maar parool moetoorweeg word wanneer ’n gevangene 25 jaar van ’n vonnis of kumulatiewe vonnis uitgedien het.”; en

(b) deur in subartikel (6)(b) subparagraph (v) deur die volgende subparagraph te 35 vervang:

“(v) gevengenisstraf beoog in [artikel 52(2)] artikel 51 of 52 van die Strafregwysigingswet, 1997 (Wet No. 105 van 1997), word nie op parool geplaas nie tensy hy of sy ten minste vier vyfdes van die tydperk van gevengenisstraf of 25 jaar, welke ook al die kortste is, 40 uitgedien het; maar die hof mag, wanneer die gevengenisstraf opgelê word, beveel dat die gevangene vir plasing op parool oorweeg word nadat hy of sy twee derdes van sodanige tydperk uitgedien het.”.

Wysiging van artikel 74 van Wet 111 van 1998

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28. Artikel 74 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (2) paragrawe (c) en (d) te skrap;

(b) deur in subartikel (2) paragraaf (e) deur die volgende paragraaf te vervang:

“(e) [twee beampes] een beampete van die Departement wat deur die Kommissaris benoem is; en”;

(c) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) ’n Kworum vir ’n vergadering van ’n Raad is [vyf] drie lede, met inbegrip van die voorstander of ondervoender [en ’n beampete van die Departement van Justisie].”; en

(d) deur na subartikel (7) die volgende subartikel in te voeg: 55

“(7A) (a) A Board may co-opt an official nominated by the National Commissioner of the South African Police Service or an official nominated by the Director-General of the Department of Justice, or both such officials, for a meeting of the Board.
(b) Any such co-opted official may vote at the meeting of the Board.”. 5

Amendment of section 75 of Act 111 of 1998

- 29.** Section 75 of the principal Act is hereby amended—
 (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
 “(a) subject to the provisions of paragraphs (b) and (c) and subsection (1A) place a prisoner under correctional supervision or day parole or grant parole and, subject to the provisions of section 52, set the conditions of community corrections imposed on the prisoner;”; and
 (b) by the insertion after subsection (1) of the following subsections:
 “(1A) (a) In all cases which involve offences identified in terms of subsection (1B), except where officials of both the South African Police Service and the Department of Justice are on the Board, the Board must request recommendations from the South African Police Service and the Department of Justice.
 (b) Such recommendations must be submitted in writing within two months of being requested.
 (1B) (a) The Commissioner may, with the concurrence of the National Commissioner of the South African Police Service, the Director-General of the Department of Justice and the National Director of Public Prosecutions, identify offences for purposes of subsection (1A).
 (b) The offences contemplated in paragraph (a) must be identified from categories of offences in respect of which sentences of imprisonment in excess of a specified period have been imposed.”.

Amendment of section 81 of Act 111 of 1998

- 30.** Section 81 of the principal Act is hereby amended—
 (a) by the substitution for subsection (1) of the following subsection:
 “(1) If the Minister is satisfied that the prison population in general or at a particular prison is reaching such proportions that the safety, human dignity and physical care of the prisoners are being affected materially, the matter must be referred to the National Council.”; and
 (b) by the addition of the following subsection:
 “(4) In the case of unsentenced prisoners the Minister may release any such prisoner or group of such prisoners subject to such conditions as may be determined by the Minister with the concurrence of the Minister of Justice.”.

Amendment of section 85 of Act 111 of 1998

- 31.** Section 85 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
 “(2) The object of the Judicial Inspectorate is to facilitate the inspection of prisons in order that the Inspecting Judge may report on the treatment of prisoners in prisons and on conditions [and any corrupt or dishonest practices] in prisons.”. 45

Amendment of section 89 of Act 111 of 1998

- 32.** Section 89 of the principal Act is hereby amended—
 (a) by the substitution for subsection (3) of the following subsection:
 “(3) Such employees [if not correctional officials] are deemed for administrative purposes to be correctional officials seconded to the

“(7A) (a) ’n Raad kan ’n beampete benoem deur die Nasionale Kommissaris van die Suid-Afrikaanse Polisiediens, of ’n beampete benoem deur die Direkteur-generaal van die Departement van Justisie, of beide sodanige beampetes, koöpteer vir ’n vergadering van die Raad.

(b) Enige sodanige gekoöpteerde beampete kan op die vergadering van die Raad stem.”.

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Wysiging van artikel 75 van Wet 111 van 1998

29. Artikel 75 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) onderworpe aan die bepalings van paragrawe (b) en (c) en subartikel (1A) ’n gevangene onder korrektiewe toesig of dagparool plaas of parool toestaan en, onderworpe aan die bepalings van artikel 52, die voorwaardes van gemeenskapskorreksies stel waaraan die gevangene onderworpe moet wees;”; en

(b) deur na subartikel (1) die volgende subartikels in te voeg:

“(1A) (a) In alle gevalle waarby misdrywe geïdentifiseer ingevolge subartikel (1B) betrokke is, behalwe waar beampetes van beide die Suid-Afrikaanse Polisiediens en die Departement van Justisie op die Raad is, moet die Raad aanbevelings van die Suid-Afrikaanse Polisiediens en die Departement van Justisie versoek.

(b) Sodanige aanbevelings moet binne twee maande nadat dit versoek is op skrif voorgelê word.

(1B) (a) Die Kommissaris kan, met die instemming van die Nasionale Kommissaris van die Suid-Afrikaanse Polisiediens, die Direkteur-generaal van die Departement van Justisie en die Nasionale Direkteur van Openbare Vervolgings misdrywe identifiseer vir die doeleindeste van subartikel (1A).

(b) Die misdrywe beoog in paragraaf (a) moet geïdentifiseer word uit kategorieë misdrywe ten opsigte waarvan vonnisste van gevangenisstraf wat ’n bepaalde tydperk oorskry, opgelê is.”.

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Wysiging van artikel 81 van Wet 111 van 1998

30. Artikel 81 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Indien die Minister oortuig is dat die gevangenisbevolking in die algemeen of by ’n bepaalde gevangenis sodanige afmetings begin aanneem dat die veiligheid, menswaardigheid en fisiese versorging van die gevangenes wesenlik beïnvloed word, moet die aangeleentheid na die Nasionale Raad verwys word.”; en

(b) deur die volgende subartikel by te voeg:

“(4) In die geval van ongevonniste gevangenes kan die Minister enige sodanige gevangene of groep sodanige gevangenes, behoudens die voorwaardes wat die Minister met die instemming van die Minister van Justisie bepaal, vrylaat.”.

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Wysiging van artikel 85 van Wet 111 van 1998

31. Artikel 85 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Die oogmerk van die Regterlike Inspektoraat is om die inspeksie van gevangenisse te faciliteer sodat die Inspekteerde Regter verslag kan doen oor die behandeling van gevangenes in gevangenisse en oor toestande [en enige korrupte of oneerlike praktyke] in gevangenisse.”.

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Wysiging van artikel 89 van Wet 111 van 1998

32. Artikel 89 van die Hoofwet word hierby gewysig—

(a) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Sodanige werknemers [indien nie korrektiewe beampetes nie] word vir administratiewe doeleindeste geag as korrektiewe beampetes

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- Judicial Inspectorate, but are under the control and authority of the Inspecting Judge.”;
- (b) by the substitution for subsection (4) of the following subsection:
- “(4) The Inspecting Judge has the same powers and duties as the Commissioner for the purposes of administrative management and control of employees under his or her authority and may delegate any such power and assign any such duty to an employee of a post level of Deputy-Director or higher.”; and
- (c) by the addition of the following subsection:
- “(5) The conditions of service of such employees are regulated by this Act, but the salaries and allowances of such employees are regulated by the Public Service Act.”.

Substitution of heading to Chapter XI of Act 111 of 1998

33. The following heading is hereby substituted for the heading to Chapter XI of the principal Act:
- “INTERNAL SERVICE EVALUATION AND ERADICATION AND PREVENTION OF CORRUPTION”.

Amendment of section 95 of Act 111 of 1998

34. Section 95 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- “(1) The Commissioner must conduct an internal service evaluation by means of internal auditing, performance auditing, inspections and investigations to promote the economical and efficient operation of the Department and to ensure that the objectives and principles of this Act are met.”;
- (b) by the deletion in subsection (2) of the word “and” at the end of paragraph (e) and the substitution for paragraph (f) of the following paragraphs:
- “(f) suggesting measures to combat theft, fraud, corruption and any other dishonest practices or irregularities; and
- (g) investigating theft, fraud, corruption and any other dishonest practices or irregularities.”; and
- (c) by the insertion after subsection (3) of the following subsection:
- “(3A) (a) The Commissioner must establish a unit to deal with matters in terms of subsections (2)(f) and (g) and (3).
- (b) Members of this unit—
- (i) are responsible to initiate disciplinary proceedings resulting from any investigation in terms of subsection (2)(g); and
- (ii) may in the manner prescribed by regulation enter and search any departmental premises and seize any departmental record.”.

Amendment of section 96 of Act 111 of 1998

35. Section 96 of the principal Act is hereby amended—
- (a) by the substitution in subsection (3) for paragraph (d) of the following paragraph:
- “(d) despite the provisions of paragraph (c), the Commissioner may, subject to the [prescribed] conditions prescribed by regulation, approve the appointment, transfer or promotion of persons to promote the basic values and principles referred to in section 195(1) of the Constitution; and”; and
- (b) by the substitution for subsection (5) of the following subsection:
- “(5) The provisions relating to the retirement [age] of correctional officials contained in the Correctional Services Act, 1959 (Act No. 8 of 1959), [remains] remain in force unless amended in the Bargaining Council for the Department of Correctional Services in terms of the Labour Relations Act.”.

gesekondeer na die Regterlike Inspektoraat, maar is onder die Inspekteerde Regter se beheer en gesag.”;

(b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Die Inspekteerde Regter het dieselfde bevoegdhede en pligte as die Kommissaris vir die doeleindes van administratiewe bestuur en beheer van werkemers onder sy of haar gesag en kan enige sodanige bevoegdheid deleer en sodanige plig toewys aan ’n werkemmer op die posvlak van Adjunkdirekteur of hoër.”; en

(c) deur die volgende subartikel by te voeg:

“(5) Die diensvooraardes van sodanige werkemers word deur hierdie Wet gereël, maar die salarisse en toelaes van sodanige werkemers word deur die Staatsdienswet gereël.”.

Vervanging van opskrif by Hoofstuk XI van Wet 111 van 1998

33. Die opskrif by Hoofstuk XI van die Hoofwet word hierby deur volgende opskrif vervang:

“INTERNE DIENSEVALUERING EN UITWISSING EN VOORKOMING VAN KORRUPSIE”.

Wysiging van artikel 95 van Wet 111 van 1998

34. Artikel 95 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) ’n Interne diensevaluering moet deur die Kommissaris uitgevoer word deur middel van interne ouditering, prestasie-ouditering, inspeksies en ondersoek om die ekonomiese en doeltreffende bestuur van die Departement te bevorder en te verseker dat die doelstellings en beginsels van hierdie Wet nagekom word.”;

(b) deur in subartikel (2) die woord “en” aan die einde van paragraaf (e) te skrap en paragraaf (f) deur die volgende paragrawe te vervang:

“(f) die voorstel van maatreëls om diefstal, bedrog, korrupsie en enige ander oneerlike praktyke of onreëlmagtighede te bestry; en

(g) diefstal, bedrog, korrupsie en enige ander oneerlike praktyke of onreëlmagtighede te ondersoek; en

(c) deur na subartikel (3) die volgende subartikel in te voeg:

“(3A) (a) Die Kommissaris moet ’n eenheid instel om met aangeleenthede ingevolge subartikels (2)(f) en (g) en (3) te handel.

(b) Lede van hierdie eenheid—

(i) is daarvoor verantwoordelik om dissiplinêre verrigtinge in te stel wat uit enige ondersoek ingevolge subartikel (2)(g) voortspruit; en

(ii) kan op die wyse voorgeskryf by regulasie enige departementele perseel betree en deursoek en op enige departementele rekord beslag lê.”.

Wysiging van artikel 96 van Wet 111 van 1998

35. Artikel 96 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (3) paragraaf (d) deur die volgende paragraaf te vervang:

“(d) ondanks die bepalings van paragraaf (c) mag die Kommissaris, onderworpe aan die by regulasie voorgeskrewe voorwaardes, die aanstelling, verplasing of bevordering van persone goedkeur ten einde die basiese waardes en beginsels bedoel in artikel 195(1) van die Grondwet te bevorder; en”; en

(b) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Die [aftree-ouderdom] bepalings met betrekking tot die aftrede van korrektiewe beampies vervat in die Wet op Korrektiewe Dienste, 1959 (Wet No. 8 van 1959), bly van krag tensy dit verander word in die Bedingsraad vir die Departement van Korrektiewe Dienste [in terme van] ingevolge die Wet op Arbeidsverhoudinge.”.

Amendment of section 97 of Act 111 of 1998

36. Section 97 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) The Minister may delegate any of the powers vested in him or her by this Act to the Commissioner, except the powers contemplated in section [133] 134 of this Act.”

“(2) The Commissioner may delegate any of the powers vested in him or her by this Act or any other Act to any correctional official [**of the Department**] or other person employed by the Department and may delegate any of the delegated powers in terms of subsection (1) to a correctional official of a post level of Deputy Director or higher.”.

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Amendment of section 101 of Act 111 of 1998

37. Section 101 of the principal Act is hereby amended by the addition of the following subsection:

“(4) (a) The Commissioner may sell any property seized in terms of this Act or the property of a deceased or escaped prisoner which is in the care of the Department by public auction, if it is not lawfully claimed within six months after being seized or after the death or escape.”

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“(b) The proceeds of the sale may be appropriated in settlement of any claims by the State against the applicable person and the balance, if any, must be paid into the National Revenue Fund.”

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“(c) If, after the period of six months referred to in paragraph (a), a person proves to the Commissioner that he or she is lawfully entitled to the balance of the proceeds, the balance must be paid to that person.”.

Amendment of section 106 of Act 111 of 1998

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38. Section 106 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) conduct any search contemplated in section 27 [(1)(b), (c) or (f)] (2)(a), (b) or (e);”.

Amendment of section 117 of Act 111 of 1998

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39. Section 117 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“Any [prisoner] person who—”.

Amendment of section 132 of Act 111 of 1998

40. Section 132 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

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“(1) [**Canteens**] The Commissioner may approve the establishment of canteens for the exclusive use or benefit of correctional officials, the families of such officials and other persons or categories of persons prescribed by regulation, [may be established and] to be conducted on such conditions and in such manner as may be prescribed by regulation, which must include conditions as to the liquidation and distribution of assets on the termination of the business of such canteen.”.

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Amendment of section 134 of Act 111 of 1998

41. Section 134 of the principal Act is hereby amended—

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

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“(e) the receipt and safe custody of money or other articles belonging to a prisoner by correctional officials at prisons and the [**fate**] disposal of such possessions should a prisoner escape, die or fail to claim them;”;

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Wysiging van artikel 97 van Wet 111 van 1998

36. Artikel 97 van die Hoofwet word hierby gewysig deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te vervang:

“(1) Die Minister mag enige van die bevoegdhede waaroor hy of sy kragtens hierdie Wet beskik, aan die Kommissaris deleger, uitgesonderd die bevoegdhede 5
beoog in artikel [133] 134 van hierdie Wet.”

(2) Die Kommissaris mag enige van die bevoegdhede waaroor hy of sy kragtens hierdie Wet of enige ander wet beskik aan enige korrektiewe beampte [van die Departement] of ander persoon in diens van die Departement deleger en mag 10
enige van die gedelegeerde bevoegdhede ingevolge subartikel (1) aan ’n korrektiewe beampte op ’n posvlak van adjunkdirekteur of hoër deleger.”.

Wysiging van artikel 101 van Wet 111 van 1998

37. Artikel 101 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

“(4) (a) Die Kommissaris kan enige eiendom waarop ingevolge hierdie Wet 15
beslag gelê is of die eiendom van ’n oorlede of ontsnapte gevangene wat in die sorg van die Departement is per openbare veiling verkoop indien dit nie binne ses maande nadat daarop beslag gelê is of na die dood of ontsnapping regmatig opgeëis word nie.”

(b) Die opbrengs van die verkoping kan ter verrekening van enige eise deur die Staat teen die betrokke persoon aangewend word en die balans, indien enige, moet in die Nasionale Inkomstefonds gestort word.

(c) Indien ’n persoon na verstryking van die tydperk van ses maande bedoel in paragraaf (a) aan die Kommissaris bewys dat hy of sy regmatig op die balans van die opbrengs geregtig is, moet die balans aan daardie persoon betaal word.”. 25

Wysiging van artikel 106 van Wet 111 van 1998

38. Artikel 106 van die Hoofwet word hierby gewysig deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) enige visentering [genoem] beoog in artikel 27 [(1)(b), (c) of (f)] (2)(a), (b) of (e) te doen;”. 30

Wysiging van artikel 117 van Wet 111 van 1998

39. Artikel 117 van die Hoofwet word hierby gewysig deur in die Engelse teks die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Any [prisoner] person who—”.

Wysiging van artikel 132 van Wet 111 van 1998

40. Artikel 132 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) [Winkels] Die Kommissaris kan die instelling van winkels goedkeur vir die uitsluitlike gebruik of voordeel van korrektiewe beampies, die families van sodanige beampies en ander persone of kategorieë persone deur regulasie voorgeskryf, [kan ingestel en] wat bestuur moet word op die voorwaardes en op die wyse deur regulasie voorgeskryf, wat moet insluit voorwaardes met betrekking tot die likwidasie en verdeling van bates by die beëindiging van die sake van sodanige winkel.”.

Wysiging van artikel 134 van Wet 111 van 1998

41. Artikel 134 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (e) deur die volgende paragraaf te vervang:

“(e) die ontvangs en veilige bewaring deur korrektiewe beampies by gevanganisse van geld en ander artikels [van die] wat aan ’n gevangene behoort en die wyse waarop [gehandel] beskik moet word [met] oor sodanige besittings indien die gevangene ontvlug, te sterwe kom of versuim om dit op te eis;”;

- (b) by the insertion in subsection (1) after paragraph (o) of the following paragraphs:
- “(oA) the manner in which any publication, video or audio material, film or computer program may be drawn from a library in the prison, sent to a prisoner from outside the prison or be used by a prisoner;
- (oB) the conditions subject to which a female prisoner may be permitted to have her child with her;”;
- (c) by the substitution in subsection (1) for paragraph (p) of the following paragraph:
- “(p) financial and other support of institutions, social agencies and individuals promoting the social responsibility and human development of prisoners or persons under community corrections, including the establishment of one or more funds to support these objects;”;
- (d) by the substitution in subsection (1) for paragraph (q) of the following paragraph:
- “(q) the admission to a prison of [persons other than correctional officials, custody officials or prisoners] any person;”;
- (e) by the substitution in subsection (1) for paragraph (z) of the following paragraph:
- “(z) the use of weapons other than firearms and non-lethal incapacitating devices, the recording of such use and the training in their use;”;
- (f) by the substitution in subsection (1) for paragraph (aa) of the following paragraph:
- “(aa) the reporting procedures when force, including the use of a firearm, is used;”;
- (g) by the substitution in subsection (1) for paragraph (dd) of the following paragraph:
- “(dd) the composition, terms of office of members and procedures for the conducting of meetings of Case Management Committees [and the designation of the prisons they are to serve];”;
- (h) by the substitution in subsection (1) for paragraph (ii) of the following paragraph:
- “(ii) the [establishment,] management and control of [a scheme] the medical scheme established under section 94(1)(b)*bis* of the Correctional Services Act, 1959 (Act No. 8 of 1959), to provide for medical treatment of correctional officials and other persons entitled thereto, membership of the scheme, membership contributions, rights, privileges and obligations of members, the vesting of assets, rights, liabilities and obligations of the scheme, the disposal of the assets of the fund and generally all matters reasonably necessary for the proper functioning of the scheme;”;
- (i) by the substitution in subsection (1) for paragraph (jj) of the following paragraph:
- “(jj) the [establishment] management and control of [a] the private fund established under section 94(1)(b)*ter* of the Correctional Services Act, 1959 (Act No. 8 of 1959), for the purposes of developing and supporting correctional officials or other persons financially or otherwise, the payment of voluntary contributions to the fund, the utilisation of money from the fund in the advancement of its purpose, and generally all matters reasonably necessary for the proper functioning of the fund;”;
- (j) by the insertion in subsection (1) after paragraph (kk) of the following paragraphs:
- “(kkA) the detention of a prisoner in order to search him or her or for the recovery, by normal excretion, of objects swallowed, and the manner in which such searches must be conducted;
- (kkB) types of mechanical restraints which may be used on prisoners, their application and the reporting procedure on their application;
- (kkC) the use of electronic and other monitoring devices and the procedures for their application;
- (kkD) the procedures for the detention of a prisoner sentenced to periodical imprisonment;

- (b) deur in subartikel (1) na paragraaf (o) die volgende paragrawe in te voeg:
- “(oA) die wyse waarop enige publikasie, video- of klankmateriaal, film of rekenaarprogram uit 'n biblioteek in die gevangenis onttrek mag word, van buite die gevangenis aan 'n gevangene gestuur mag word of deur 'n gevangene gebruik mag word;
- (oB) die voorwaardes waarop 'n vroulike gevangene toegelaat mag word om haar kind by haar te hê;”;
- (c) deur in subartikel (1) paragraaf (p) deur die volgende paragraaf te vervang:
- “(p) finansiële en ander ondersteuning van instellings, maatskaplike agentskappe en individue wat die maatskaplike verantwoordelikheid en menslike ontwikkeling van gevangenes of persone onder gemeenskapskorreksies bevorder, met inbegrip van die instelling van een of meer fondse om hierdie doelstellings te ondersteun;”;
- (d) deur in subartikel (1) paragraaf (q) deur die volgende paragraaf te vervang:
- “(q) die toelating tot 'n gevangenis van [persone anders as korrektiewe beampes, bewakingsbeampes of gevangenes;] enige persoon;”;
- (e) deur in subartikel (1) paragraaf (z) deur die volgende paragraaf te vervang:
- “(z) die gebruik van wapens anders as vuurwapens en nie-dodelike buiteaksiestellende toestelle, die boekstawing van sodanige gebruik en die opleiding in die gebruik daarvan;”;
- (f) deur in subartikel (1) paragraaf (aa) deur die volgende paragraaf te vervang:
- “(aa) die prosedure vir rapportering wanneer geweld, met inbegrip van die gebruik van 'n vuurwapen, gebruik [is] word;”;
- (g) deur in subartikel (1) paragraaf (dd) deur die volgende paragraaf te vervang:
- “(dd) die samestelling, ampstermyne van lede en prosedures vir die hou van vergaderings van Gevallebestuurskomitees [en die aanwysing van gevangenisse waar hulle moet dien];”;
- (h) deur in subartikel (1) paragraaf (ii) deur die volgende paragraaf te vervang:
- “(ii) die [instelling,] bestuur en beheer van ['n skema] die mediese skema ingestel kragtens artikel 94(1)(b)bis van die Wet op Korrektiewe Dienste, 1959 (Wet No. 8 van 1959), om voorsiening te maak vir mediese behandeling van korrektiewe beampes en ander persone wat daarop geregtig is, lidmaatskap van die skema, lidmaatskapbydraes, regte, voorregte en verpligtinge van lede, die vestiging van bates, regte, laste en verpligtinge van die skema, die beskikking oor bates van die fonds en in die algemeen alle aangeleenthede wat redelikerwys nodig is vir die behoorlike werking van die skema;”;
- (i) deur in subartikel (1) paragraaf (jj) deur die volgende paragraaf te vervang:
- “(jj) die [instelling,] bestuur en beheer van ['n privaat gefinansierde fonds] die privaatfonds ingestel kragtens artikel 94(1)(b) ter van die Wet op Korrektiewe Dienste, 1959 (Wet No. 8 van 1959), vir die doeleindes van ontwikkeling en ondersteuning van korrektiewe beampes of ander persone finansieel of andersins, die betaling van vrywillige bydraes tot die fonds, die aanwending van geld uit die fonds ter bevordering van sy doel, en in die algemeen alle aangeleenthede wat redelickerwys nodig is vir die behoorlike werking van die fonds;”;
- (j) deur in subartikel (1) na paragraaf (kk) die volgende paragrawe in te voeg:
- “(kkA) die aanhouding van 'n gevangene ten einde hom of haar te visenter vir die herwinning, deur normale uitskeiding, van voorwerpe wat ingesluk is en die wyse waarop sodanige visenterings gedoen moet word;
- (kkB) soorte meganiese dwangmiddele wat op gevangenes gebruik mag word, hul aanwending en die prosedure vir rapportering oor hul aanwending;
- (kkC) die gebruik van elektroniese en ander moniteringstoestelle en die prosedures vir die aanwending daarvan;
- (kkD) die prosedures vir die aanhouding van 'n gevangene wat tot periodieke gevanganisstraf gevonnis is;

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| (kkE) | the establishment, management and use of canteens and the liquidation and distribution of assets on the termination of their business; | 5 |
| (kkF) | the management and use of canteens established under section 88 of the Correctional Services Act, 1959 (Act No. 8 of 1959), and the liquidation and distribution of assets on the termination of their business; | |
| (kkG) | the management and membership of clubs established in terms of regulation 7A promulgated under the Correctional Services Act, 1959 (Act No. 8 of 1959), and the establishment and membership of new clubs; | 10 |
| (kkH) | the proper performance of its functions by the unit contemplated in section 95(3A) when acting in terms of subsections (2)(f) and (g) and (3) of that section;”; | |
| (k) | by the substitution in subsection (1) for paragraph (ll) of the following paragraph: | 15 |
| | “(ll) generally, all matters, [considered] the prescription of which is necessary or expedient for attaining the purpose of this Act, or which must or may be prescribed by regulation in terms of this Act.”; | 20 |
| (l) | by the substitution for subsection (2) of the following subsection: | |
| | “(2) The Commissioner may issue orders, not inconsistent with this Act and the regulations made thereunder, which must be obeyed by all correctional officials and other persons to whom such orders apply, as to— | |
| (a) | the conditions for and circumstances under which payment to a prisoner, or the taking into safekeeping, release or disposal of money, valuables or other articles belonging to a prisoner, may take place; | 25 |
| (b) | the bathing or showering of prisoners; | |
| (c) | hygienic requirements of bedding; | 30 |
| (d) | the provision of special diet; | |
| (e) | the provision of clothing and bedding on admission; | |
| (f) | the wearing of attire for religious or cultural purposes; | |
| (g) | access to the services of a medical practitioner of the prisoner's choice; | 35 |
| (h) | the supply at State expenses of medical assistance devices not including surgical implants; | |
| (i) | reports on problems concerning environmental health conditions and health-related issues; | 40 |
| (j) | the manner in which the Head of Prison must allow a prisoner to notify his or her spouse, partner or next-of-kin when the prisoner is transferred; | |
| (k) | recreational activities to be provided for the benefit of the mental and physical health of prisoners; | 45 |
| (l) | the establishment and maintenance of libraries; | |
| (m) | the recording of identification particulars of a prisoner; | |
| (n) | the taking of the fingerprints and photographs of a prisoner for identification purposes; | |
| (o) | the manner in which mechanical restraints are to be applied; | 50 |
| (p) | the reporting of incidents and actions taken where non-lethal incapacitating devices were used; | |
| (q) | the handling of firearms; | |
| (r) | the reporting of firearm use; | |
| (s) | general safety measures for handling firearms; | 55 |
| (t) | the types of weapons other than non-lethal incapacitating devices and firearms to be used by correctional officials; | |
| (u) | the use of batons; | |
| (v) | the procedures for the use of pyrotechnical equipment; | |
| (w) | amenities to be made available to prisoners; | |
| (x) | work which may be performed by a prisoner on Sundays or other days of rest and gratuity for such work; | 60 |
| (y) | a discharge report of a prisoner under medical treatment; | |
| (z) | the restrictions on amenities for unsentenced prisoners; | |

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| (kkE) | die instelling, bestuur en gebruik van winkels en die likwidasie en verdeling van bates by beëindiging van hul sake; | |
| (kkF) | die bestuur en gebruik van winkels ingestel kragtens artikel 88 van die Wet op Korrektiewe Dienste, 1959 (Wet No. 8 van 1959), en die likwidasie en verdeling van bates by die beëindiging van hul sake; | 5 |
| (kkG) | die bestuur en lidmaatskap van klubs ingestel ingevolge regulasie 7A gepromulgeer kragtens die Wet op Korrektiewe Dienste, 1959 (Wet No. 8 van 1959), en die instelling en lidmaatskap van nuwe klubs; | |
| (kkH) | die behoorlike verrigting van sy werksaamhede deur die eenheid beoog in artikel 95(3A) wanneer dit ingevolge subartikels 2(f) en (g) en (3) van daardie artikel optree;"; | 10 |
| (k) | deur in subartikel (1) paragraaf (ll) deur die volgende paragraaf te vervang: “(ll) in die algemeen alle aangeleenthede [noodsaaklik of wenslik] wat nodig of dienstig is om voorgeskryf te word om die oogmerk van hierdie Wet te bereik of wat by regulasie ingevolge hierdie Wet voorgeskryf moet of kan word.”; | 15 |
| (l) | deur subartikel (2) deur die volgende subartikel te vervang: “(2) Die Kommissaris kan orders uitrek wat nie teenstrydig is met hierdie Wet en die regulasies daarkragtens gemaak nie, wat deur alle korrektiewe beampies en ander persone op wie sodanige orders van toepassing is, gehoorsaam moet word, met betrekking tot— (a) die voorwaardes vir en die omstandighede waaronder betaling aan 'n gevangene, of die bewaring van, vrystelling of beskikking oor geld, kosbaarhede of ander artikels wat aan 'n gevangene behoort, kan plaasvind; (b) die bad of stort van gevangenes; (c) higiëniese vereistes vir beddegoed; (d) die voorsiening van spesiale dieet; (e) die voorsiening van klere en beddegoed by opname; (f) die dra van uitrusting vir godsdienstige en kulturele doeleinades; (g) toegang tot die dienste van 'n mediese praktisyn van die gevangene se keuse; (h) die voorsiening op Staatskoste van mediese hulptoestelle wat nie chirurgiese implantate insluit nie; (i) verslae oor probleme met betrekking tot omgewingsgesondheidsstoestande en gesondheidsverwante kwessies; (j) die wyse waarop die Gevangenishoof 'n gevangene moet toelaat om sy of haar gade, genoot of naasbestaandes in kennis te stel wanneer die gevangene oorgeplaas word; (k) ontspanningsaktiwiteite wat tot voordeel van die geestelike en fisiese gesondheid van gevangenes voorsien moet word; (l) die instelling en instandhouding van biblioteke; (m) boekstawing van identifikasiebesonderhede van 'n gevangene; (n) die neem van vingerafdrukke en foto's van 'n gevangene vir identifikasiedoeleinades; (o) die wyse waarop meganiese dwangmiddele aangewend moet word; (p) die rapportering van voorvalle en optredes geloods waar nie-dodelike buiteaksiestellende toestelle gebruik is; (q) die hantering van vuurwapens; (r) die rapportering van vuurwapengebruik; (s) algemene veiligheidsmaatreëls vir vuurwapenhantering; (t) die soorte wapens anders as nie-dodelike buiteaksiestellende toestelle en vuurwapens wat deur korrektiewe beampies gebruik moet word; | 20 25 30 35 40 45 50 55 |
| (u) | die gebruik van knuppels; | |
| (v) | die procedures vir die gebruik van pirotegniese toerusting; | |
| (w) | geriewe wat aan gevangenes beskikbaar gestel moet word; | |
| (x) | werk wat deur 'n gevangene verrig mag word op Sondae of ander rusdae en gratifikasie vir sodanige werk; | 60 |
| (y) | 'n ontslagverslag van 'n gevangene wat onder mediese behandeling is; | |
| (z) | die beperkings op geriewe vir ongevonniste gevangenes; | |

- (aa) the appointment of correctional officials on probation;
- (bb) health and security requirements of an applicant for appointment in the Department;
- (cc) the written contract of employment to be provided to every correctional official upon appointment;
- (dd) the conditions under which a correctional official may do remunerative work outside the Department;
- (ee) the conditions for the issuing, wearing and maintenance of articles of uniform and equipment;
- (ff) the termination of service of correctional officials;
- (gg) the conditions under which a correctional official may resign from the Department;
- (hh) the powers and duties of the Medical Advisory Board;
- (ii) categories of leave and deviations from leave conditions;
- (jj) the payment of subsistence allowances and the deviations from qualifying conditions;
- (kk) the conveyance at State expense of the personal and household effects of a correctional official who is transferred;
- (ll) the powers, functions and duties of the Board of Trustees of the Facilities Fund;
- (mm) the constitution and performance of functions of a committee to control a departmental canteen;
- (nn) the obtaining of information of statistical value and research;
- (oo) the conditions under which the Head of Prison must allow certain persons access to the prison;
- (pp) generally, all matters necessary or expedient for the application of this Act or the regulations.”.

Substitution of section 136 of Act 111 of 1998

42. The following section is hereby substituted for section 136 of the principal Act:

“Transitional provisions

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136. (1) Any person serving a sentence of imprisonment immediately before the commencement of Chapters IV, VI and VII is subject to the provisions of the Correctional Services Act, 1959 (Act No. 8 of 1959), relating to his or her placement under community corrections, and is to be considered for such release and placement by the Correctional Supervision and Parole Board in terms of the policy and guidelines applied by the former Parole Boards prior to the commencement of those Chapters.

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(2) When considering the release and placement of a prisoner who is serving a determinate sentence of imprisonment as contemplated in subsection (1), such prisoner must be allocated the maximum number of credits in terms of section 22A of the Correctional Services Act, 1959 (Act No. 8 of 1959).

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(3) (a) Any prisoner serving a sentence of life imprisonment immediately before the commencement of Chapters IV, VI and VII is entitled to be considered for day parole and parole after he or she has served 20 years of the sentence.

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(b) The case of a prisoner contemplated in paragraph (a) must be submitted to the National Council which must make a recommendation to the Minister regarding the placement of the prisoner under day parole or parole.

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(c) If the recommendation of the National Council is favourable, the Minister may order that the prisoner be placed under day parole or parole, as the case may be.

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(4) If a person is sentenced to life imprisonment after the commencement of Chapters IV, VI and VII while serving a life sentence imposed prior to the commencement, the matter must, after the prisoner has served 25 years accumulatively, be referred to the court which imposed the last sentence of

- (aa) die aanstelling op proef van korrektiewe beampes;
- (bb) gesondheids- en sekerheidsvereistes van 'n aansoeker om aanstelling in die Departement;
- (cc) die geskrewe dienskontrak wat aan elke korrektiewe beampte by aanstelling voorsien moet word;
- (dd) die voorwaardes waaronder 'n korrektiewe beampte betaalde werk buite die Department mag verrig;
- (ee) die voorwaardes vir die uitreiking, dra en onderhoud van uniformstukke en toerusting;
- (ff) die diensbeëindiging van korrektiewe beampes;
- (gg) die voorwaardes waaronder 'n korrektiewe beampte uit die Departement mag bedank;
- (hh) die bevoegdhede en pligte van die Mediese Adviesraad;
- (ii) kategorieë verlof en afwykings van verlofvoorwaardes;
- (jj) die betaling van bestaanstoelaes en die afwykings van kwalifiserende voorwaardes;
- (kk) die vervoer op Staatskoste van persoonlike en huishoudelike besittings van 'n korrektiewe beampte wat verplaas word;
- (ll) die bevoegdhede, werksaamhede en pligte van die Raad van Trustees van die Geriewefonds;
- (mm) die samestelling van en verrigting van werksaamhede van 'n komitee om 'n departementele winkel te beheer;
- (nn) die verkryging van inligting van statistiese waarde en navorsing;
- (oo) die voorwaardes waaronder die Gevangenishoof sekere persone moet toelaat tot die gevangenis;
- (pp) in die algemeen, alle aangeleenthede wat nodig of dienstig is vir die toepassing van hierdie Wet of die regulasies.”.

Vervanging van artikel 136 van Wet 111 van 1998

42. Artikel 136 van die Hoofwet word hierby deur die volgende artikel vervang:

“Oorgangsbeplings

136. (1) Enige persoon wat 'n vonnis van gevangenisstraf uittien onmiddellik voor die inwerkingtreding van Hoofstukke IV, VI en VII is onderworpe aan die beplings van die Wet op Korrektiewe Dienste, 1959 (Wet No. 8 van 1959), met betrekking tot sy of haar plasing onder gemeenskapskorreksies, en moet oorweeg word vir sodanige vrylating en plasing deur die Korrektiewe Toesig- en Paroolraad ingevolge die beleid en riglyne toegepas deur die voormalige Paroolrade voor die inwerkingtreding van daardie Hoofstukke.

(2) Wanneer die vrylating en plasing van 'n gevangene wat 'n bepaalde vonnis van gevangenisstraf uittien, oorweeg word soos beoog in subartikel (1) moet die maksimum getal krediete ingevolge artikel 22A van die Wet op Korrektiewe Dienste, 1959 (Wet No. 8 van 1959), aan sodanige gevangene toegeken word.

(3) (a) Enige gevangene wat 'n vonnis van lewenslange gevangenisstraf onmiddellik voor die inwerkingtreding van Hoofstukke IV, VI en VII uittien, is geregtig om vir dagparool en parool oorweeg te word nadat hy of sy 20 jaar van die vonnis uitgedien het.

(b) Die geval van 'n gevangene beoog in paragraaf (a) moet voorgelê word aan die Nasionale Raad wat 'n aanbeveling aan die Minister moet doen oor die plasing van die gevangene op dagparool of parool.

(c) Indien die aanbeveling van die Nasionale Raad gunstig is, kan die Minister gelas dat die gevangene op dagparool of parool, na gelang van die geval, geplaas word.

(4) Indien 'n persoon na die inwerkingtreding van Hoofstukke IV, VI en VII tot lewenslange gevangenisstraf gevonnis word terwyl 'n vonnis uitgedien word van lewenslange gevangenisstraf opgelê voor die inwerkingtreding, moet die aangeleentheid, nadat die gevangene oplopend 25 jaar uitgedien het, na die hof wat die laaste vonnis van lewenslange

life imprisonment for consideration of placement under day parole or parole.”.

Substitution of heading to Schedule to Act 111 of 1998

43. The following heading is hereby substituted for the heading of the Schedule to the principal Act:

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“Schedule

LAWS AMENDED BY SECTION [136] 137”.

Amendment of Schedule to Act 111 of 1998

44. The Schedule to the principal Act is hereby amended by the substitution in the third column for item 1 of the following item:

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“1. The amendment of section 1 by the substitution for the definition of “Commissioner” of the following definition:

“**‘Commissioner’**, means the Commissioner of Correctional Services as defined in section [138] 1 of the Correctional Services Act, 1998, or a person authorized by him or her;”.”.

15

Short title

45. This Act is called the Correctional Services Amendment Act, 2001.

gevangenisstraf opgelê het, verwys word vir oorweging van plasing op |
dagparool of parool.”.

Vervanging van die opskrif van Bylae by Wet 111 van 1998

43. Die opskrif van die Bylae by die Hoofwet word hierby deur die volgende opskrif vervang:

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“Bylae

WETTE GEWYSIG DEUR ARTIKEL [136] 137”.

Wysiging van Bylae by Wet 111 van 1998

44. Die Bylae by die Hoofwet word hierby gewysig deur in die derde kolom van die Engelse teks item 1 deur die volgende item te vervang:

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“1. The amendment of section 1 by the substitution for the definition of ‘Commissioner’ of the following definition:

“‘Commissioner’ means the Commissioner of Correctional Services as defined in section [138] 1 of the Correctional Services Act, 1998, or a person authorized by him or her;.”.

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Kort titel

45. Hierdie Wet heet die Wysigingswet op Korrektiewe Dienste, 2001.

