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PROCLAMATION

by the

State President of the Republic of South Africa

No. R. 87, 1989

PUBLIC SAFETY ACT, 1953

PRISON EMERGENCY REGULATIONS

Under the powers vested in me by section 3 of the Public Safety Act, 1953 (Act No. 3 of 1953), I hereby make the regulations contained in the Schedule with effect from 9 June 1989.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Eighth day of June, One thousand Nine hundred and Eighty-nine.

P. W. BOTHA,

State President.

By Order of the State President-in-Cabinet:

H. J. COETSEE,

Minister of the Cabinet.

SCHEDULE

Definitions and interpretation

1. (1) In these regulations, unless the context otherwise indicates—

“Commissioner of Police” means the Commissioner of the South African Police, and for the purposes of the application of a provision of these regulations in—

(a) a division as defined in section 1 of the Police Act, 1958 (Act No. 7 of 1958), the said Commissioner or the Divisional Commissioner designated under that Act for that division; or

(b) a self-governing territory, the said Commissioner or the Commissioner or other officer in charge of the police force of the Government of that self-governing territory;

“detainee” means a person who is in detention under regulation 3 of the Security Emergency Regulations, 1989;

“head of a prison”, in relation to a detainee detained—

(a) in a prison as defined in the Prisons Act, means the head of that prison; or

PROKLAMASIE

van die

Staatspresident van die Republiek van Suid-Afrika

No. R. 87, 1989

WET OP OPENBARE VEILIGHEID, 1953

GEVANGENISNOODREGULASIES

Kragtens die bevoegdheid my verleen by artikel 3 van die Wet op Openbare Veiligheid, 1953 (Wet No. 3 van 1953), vaardig ek hierby die regulasies vervat in die Bylae met ingang van 9 Junie 1989 uit.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad, op hede die Agtste dag van Junie Eenduisend Negehonderd Nege-en-tagtig.

P. W. BOTHA

Staatspresident.

Op las van die Staatspresident-in-Kabinet:

H. J. COETSEE,

Minister van die Kabinet.

BYLAE

Woordomskrywing en uitleg

1. (1) In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

“aangehoudene” ’n persoon wat kragtens regulasie 3 van die Veiligheidsnoodregulasies, 1989, in aanhouding is;

“geneeskundige beampte”, met betrekking tot ’n aangehoudene wat—

(a) in ’n gevangenis soos omskryf in die Gevangeniswet aangehou word, ’n persoon wat kragtens artikel 6 van die Gevangeniswet as die geneeskundige beampte van daardie gevangenis aangestel is of ’n geneesheer wat ingevolge genoemde artikel die pligte verrig wat aan so ’n beampte opgedra is; of

(b) in ’n polisieel of -opsluitplek aangehou word, die distriksgeneesheer vir die gebied waarin daardie polisieel of -opsluitplek geleë is of ’n ander geneesheer wat op sy gesag handel;

“gevangenis” ’n gevangenis soos omskryf in regulasie 1 van die Veiligheidsnoodregulasies, 1989;

(b) in a police cell or lock-up, means the person in charge of that police cell or lock-up;

"medical officer", in relation to a detainee detained—

(a) in a prison as defined in the Prisons Act, means a person appointed under section 6 of the Prisons Act as the medical officer of that prison or any medical practitioner who in terms of the said section performs the duties assigned to such officer; or

(b) in a police cell or lock-up, means the district surgeon for the area in which that police cell or lock-up is situated or any other medical practitioner acting on his authority;

"prison" means a prison as defined in regulation 1 of the Security Emergency Regulations, 1989;

"Prison Regulations" means the regulations published under section 94 of the Prisons Act by Government Notice No. R. 2080 of 1965, as amended;

"Prisons Act" means the Prisons Act, 1959 (Act No. 8 of 1959);

"self-governing territory" means a territory declared under section 26 of the National States Constitution Act, 1971 (Act No. 21 of 1971), to be a self-governing territory within the Republic.

(2) These regulations and the Security Emergency Regulations, 1989, shall not derogate from the application of the Prisons Act and the Prison Regulations to or in respect of a detainee detained in a prison as defined in the Prisons Act, but in the case of a conflict between a provision of or decision under these regulations or the Security Emergency Regulations, 1989, and a provision of or decision under the Prisons Act or the Prison Regulations, the first-mentioned provision or decision, as the case may be, shall apply.

Application of certain provisions of the Prisons Act and Prison regulations which are not otherwise applicable

2. (1) The provisions of sections 82 and 83 of the Prisons Act shall, subject to subregulation (3) of this regulation and regulation 3 (7) of the Security Emergency Regulations, 1989, apply *mutatis mutandis* to or in respect of a detainee, and in such application of the said provisions to or in respect of—

(a) a detainee detained in a prison as defined in the Prisons Act, a reference in those provisions to a prisoner awaiting trial for an alleged offence, shall be construed as a reference to a detainee who is so detained in such a prison;

(b) a detainee detained in a police cell or lock-up, a reference in those provisions—

(i) to a prisoner awaiting trial for an alleged offence, shall be construed as a reference to a detainee who is so detained in a police cell or lock-up;

(ii) to the Commissioner of Prisons, shall be construed as a reference to the Commissioner of Police; and

"Gevangenisregulasies" die regulasies afgekondig kragtens artikel 94 van die Gevangeniswet by Goewernmentskennisgewing No. R. 2080 van 1965, soos gewysig;

"Gevangeniswet" die Wet op Gevangenis, 1959 (Wet No. 8 van 1959);

"hoof van 'n gevangenis", met betrekking tot 'n aangehoudene wat—

(a) in 'n gevangenis soos omskryf in die Gevangeniswet aangehou word, die hoof van daardie gevangenis; of

(b) in 'n polisieel of -opsluitplek aangehou word, die persoon in bevel van daardie polisieel of -opsluitplek;

"Kommissaris van Polisie" die Kommissaris van die Suid-Afrikaanse Polisie, en by die toepassing van 'n bepaling van hierdie regulasies binne—

(a) 'n afdeling soos omskryf in artikel 1 van die Polisiwet, 1958 (Wet No. 7 van 1958), bedoelde Kommissaris of die Afdelingskommissaris wat kragtens daardie Wet vir daardie afdeling aangewys is; of

(b) 'n selfregerende gebied, bedoelde Kommissaris of die Kommissaris of ander offisier in bevel van die polisiemag van die Regering van daardie selfregerende gebied;

"selfregerende gebied", 'n gebied wat kragtens artikel 26 van die Grondwet van die Nasionale State, 1971 (Wet No. 21 van 1971), tot 'n selfregerende gebied binne die Republiek verklaar is.

(2) Hierdie regulasies en die Veiligheidsnoodregulasies, 1989, doen nie afbreuk aan die toepassing van die Gevangeniswet en die Gevangenisregulasies op of ten opsigte van 'n aangehoudene wat in 'n gevangenis soos omskryf in die Gevangeniswet aangehou word nie, maar in die geval van 'n botsing tussen 'n bepaling van of besluit kragtens hierdie regulasies of die Veiligheidsnoodregulasies, 1989, en 'n bepaling van of besluit kragtens die Gevangeniswet of die Gevangenisregulasies geld eersgenoemde bepaling of besluit, na gelang van die geval.

Toepassing van sekere bepalings van Gevangeniswet en -regulasies wat nie andersins van toepassing is nie

2. (1) Die bepalings van artikels 82 en 83 van die Gevangeniswet is, behoudens subregulasie (3) van hierdie regulasie en regulasie 3 (7) van die Veiligheidsnoodregulasies, 1989, *mutatis mutandis* op of ten opsigte van 'n aangehoudene van toepassing, en by sodanige toepassing van bedoelde bepalings op of ten opsigte van—

(a) 'n aangehoudene wat in 'n gevangenis soos omskryf in die Gevangeniswet aangehou word, word 'n verwysing in daardie bepalings na 'n gevangene wat verhoor weens 'n beweerde misdryf afwag, uitgelê as 'n verwysing na 'n aangehoudene wat aldus in so 'n gevangenis aangehou word;

(b) 'n aangehoudene wat in 'n polisieel of -opsluitplek aangehou word, word 'n verwysing in daardie bepalings—

(i) na 'n gevangene wat verhoor weens 'n beweerde misdryf afwag, uitgelê as 'n verwysing na 'n aangehoudene wat aldus in 'n polisieel of -opsluitplek aangehou word;

(ii) na die Kommissaris van Gevangenis, uitgelê as 'n verwysing na die Kommissaris van Polisie; en

(iii) to a member of the Prisons Service, shall be construed as a reference to a member of the South African Police or of the police force of the Government of a self-governing territory, as the case may be.

(2) The provisions of regulation 132 (2), (3), (5), (6) and (10) of the Prison Regulations shall, subject to subregulation (3) of this regulation and regulation 3 (7) of the Security Emergency Regulations, 1989, *mutatis mutandis* apply to or in respect of a detainee detained in a police cell or lock-up, and in such application a reference in the said provisions—

(a) to a prisoner awaiting trial, shall be construed as a reference to a detainee who is so detained in a police cell or lock up;

(b) to the Commissioner of Prisons, shall be construed as a reference to the Commissioner of Police; and

(c) to the head of a prison, shall be construed as a reference to the person in charge of a police cell or lock-up.

(3) Notwithstanding the provisions as applied in terms of subregulations (1) and (2) to or in respect of a detainee, no detainee shall be allowed under a power contained in those provisions to procure for himself from outside the prison any newspaper, foodstuffs or potables, radio, record player, tape recorder, musical instrument or television set.

Segregation

3. As far as it is practicable in the opinion of the head of a prison (with due regard to any disciplinary, control, security and other measures taken for the effective administration of the prison) detainees shall be segregated from sentenced and other categories of unsentenced prisoners in the prison.

Medical treatment

4. (1) A detainee shall be examined medically by the medical officer—

(a) as soon as may be practicable after his arrest and detention under regulation 3 (1) of the Security Emergency Regulations, 1989; and

(b) as shortly as possible before his release from detention.

(2) The head of a prison shall ensure that any medical or dental treatment prescribed by the medical officer for a detainee is carried out promptly.

(3) Medical or dental treatment of a detainee by a medical practitioner who is not the medical officer, or by a specialist, or in a hospital or clinic outside the prison where the detainee is detained, may be provided only on the recommendation of the medical officer.

(4) Subject to the provisions of regulation 111 of the Prison Regulations, the provisions of subregulation (1) (a) of this regulation shall not apply in respect of a person who immediately prior to the commencement of these regulations was in detention under regulation 3 of the Security Emergency Regulations, 1988, and who after such commencement is arrested and detained under regulation 3 of the Security Emergency Regulations, 1989, without him being released from the prison where he was detained immediately before such commencement.

(iii) na 'n lid van die Gevangenisdiens, uitgelê as 'n verwysing na 'n lid van die Suid-Afrikaanse Polisie of van die polisiemag van die Regering van 'n selfregerende gebied, na gelang van die geval.

(2) Die bepalinge van regulasie 132 (2), (3), (5), (6) en (10) van die Gevangenisregulasies is, behoudens subregulasie (3) van hierdie regulasie en regulasie 3 (7) van die Veiligheidsnoodregulasies, 1989, *mutatis mutandis* op of ten opsigte van 'n aangehoudene wat in 'n polisieel of -opsluitplek aangehou word, van toepassing, en by sodanige toepassing word 'n verwysing in bedoelde bepalinge—

(a) na 'n gevangene wat verhoor afgewag, uitgelê as 'n verwysing na 'n aangehoudene wat aldus in 'n polisieel of -opsluitplek aangehou word;

na die Kommissaris van Gevangenis, uitgelê as 'n verwysing na die Kommissaris van Polisie; en

(c) na die hoof van 'n gevangenis, uitgelê as 'n verwysing na die persoon in bevel van 'n polisieel of -opsluitplek.

(3) Ondanks die bepalinge soos ingevolge subregulasies (1) en (2) op of ten opsigte van 'n aangehoudene toegepas, word geen aangehoudene kragtens 'n bevoegdheid in daardie bepalinge vervat, toegelaat om enige nuusblad, eet- of drinkgoed, radio, platespeler, bandopnemer, musiekinstrument of televisiestel van buite die gevangenis vir homself te verkry nie.

Afsondering

3. Vir sover dit volgens die oordeel van die hoof van 'n gevangenis uitvoerbaar is (met inagneming van enige dissiplinêre, beheer-, veiligheids- en ander maatreëls wat vir die doeltreffende administrasie van die gevangenis getref is) moet aangehoudenenes afgesonderd word van gevonniste en ander kategorieë ongevonniste gevangenes in die gevangenis.

Mediese behandeling

4. (1) 'n Aangehoudene moet deur die geneeskundige beamppte geneeskundig ondersoek word—

(a) so gou doenlik na sy arrestasie en aanhouding kragtens regulasie 3 (1) van die Veiligheidsnoodregulasies, 1989; en

(b) so kort moontlik voor sy vrylating uit aanhouding.

(2) Die hoof van 'n gevangenis moet toesien dat enige geneeskundige of tandheelkundige behandeling deur die geneeskundige beamppte vir 'n aangehoudene voorgeskryf, stiptelik uitgevoer word.

(3) Geneeskundige of tandheelkundige behandeling van 'n aangehoudene deur 'n geneesheer wat nie die geneeskundige beamppte is nie, of deur 'n spesialis, of in 'n hospitaal of kliniek buite die gevangenis waar die aangehoudene aangehou word, kan slegs op aanbeveling van die geneeskundige beamppte verskaf word.

(4) Behoudens die bepalinge van regulasie 111 van die Gevangenisregulasies, is die bepalinge van subregulasie (1) (a) van hierdie regulasie nie van toepassing nie ten opsigte van 'n persoon wat onmiddellik voor die inwerkingtreëding van hierdie regulasies kragtens regulasie 3 van die Veiligheidsnoodregulasies, 1988, in aanhouding was en wat na sodanige inwerkingtreëding gearrester en aangehou word kragtens regulasie 3 van die Veiligheidsnoodregulasies, 1989, sonder dat hy uit die gevangenis waar hy onmiddellik voor sodanige inwerkingtreëding aangehou was, vrygelaat is.

Studies

5. As far as it is practicable in the opinion of the head of a prison (with due regard to any disciplinary, control, security and other measures taken for the effective administration of the prison) a detainee in that prison may, subject to such limitations and reservations as may generally or with reference to that particular detainee be determined by the head of the prison with the concurrence of the Commissioner of Police, be allowed to study by way of correspondence through any educational institution approved by the said Commissioner for the purposes of this regulation.

Exercise and sport activities

6. (1) The head of a prison shall ensure that a detainee detained in that prison is allowed to perform physical exercises for at least half an hour per day, either in the open air (weather permitting) or in any place outside his cell which is in the opinion of the head of the prison suitable or equipped for such purpose.

(2) A detainee who does not desire to take any exercise shall not be forced to do so.

(3) As far as it is practicable in the opinion of the head of a prison (with due regard to any disciplinary, control, security and other measures taken for the effective administration of the prison) a detainee may be allowed to participate in or to pursue intramural sport activities if facilities therefor are available.

Detainees in police cells or lock-ups

7. No detainee shall without the consent of the Commissioner of Police be detained in a police cell or lock-up for a continuous period in excess of 14 days.

Short title

8. These regulations shall be called the Prison Emergency Regulations, 1989.

Studies

5. Vir sover dit volgens die oordeel van die hoof van 'n gevangenis uitvoerbaar is (met inagneming van enige dissiplinêre, beheer-, veiligheids- en ander maatreëls wat vir die doeltreffende administrasie van die gevangenis getref is) kan 'n aangehoudene in daardie gevangenis, behoudens die beperkings en voorbehoude wat die hoof van die gevangenis in die algemeen of met verwysing na daardie bepaalde aangehoudene met die instemming van die Kommissaris van Polisie bepaal, toegelaat word om aan 'n opvoedkundige inrigting deur genoemde Kommissaris vir doeleindes van hierdie regulasie goedgekeur by wyse van korrespondensie te studeer.

Oefening en sportaktiwiteite

6. (1) Die hoof van 'n gevangenis moet toesien dat 'n aangehoudene wat in daardie gevangenis aangehou word, toegelaat word om vir minstens 'n halfuur per dag liggaamlike oefeninge te doen, hetsy in die buitlug (indien weersomstandighede dit toelaat) of in 'n plek buite sy sel wat volgens die oordeel van die hoof van die gevangenis daarvoor geskik of ingerig is.

(2) 'n Aangehoudene wat geen oefeninge wens te doen nie word nie daartoe verplig nie.

(3) Vir sover dit volgens die oordeel van die hoof van 'n gevangenis uitvoerbaar is (met inagneming van enige dissiplinêre, beheer-, veiligheids- en ander maatreëls wat vir die doeltreffende administrasie van die gevangenis getref is) kan 'n aangehoudene toegelaat word om aan binnemuurse sportaktiwiteite, indien fasiliteite daarvoor beskikbaar is, deel te neem of dit te beoefen.

Aangehoudenenes in polisiecelle en -opsluitplekke

7. Geen aangehoudene word sonder die toestemming van die Kommissaris van Polisie vir 'n aaneenlopende tydperk van langer as 14 dae in 'n polisiecel of -opsluitplek aangehou nie.

Kort titel

8. Hierdie regulasies heet die Gevangenisnoodregulasies, 1989.

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