



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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No. 12615

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1595.

11 Julie 1990

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

No. 92 van 1990: Wysigingswet op Gevangenis, 1990.

No. 1595.

11 July 1990

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

No. 92 of 1990: Prisons Amendment Act, 1990.

Wet No. 92, 1990

WYSIGINGSWET OP GEVANGENISSE, 1990

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Gevangenis, 1959, ten einde sekere uitdrukkings te omskryf of nader te omskryf en sekere omskrywings te skrap; sekere boetes te verhoog; die ontslag van offisiere te reël; die ontslag van lede van die Gevangenisdiens wat staak, te reël; die toekenning van dekorasies en medaljes aan enigiemand ten opsigte van dienste ten bate van die Gevangenisdiens te magtig; die instelling van gevangenis verder te reël; die skeiding van gevangenes verder te reël; vir die oorpasing van jeugdige gevangenis na verbeteringskole voorsiening te maak; die prosedure in geval van wangedrag van offisiere verder te reël; die toestaan van dagparool aan gevangenes in te stel; en sekere teksveranderinge aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 28 Junie 1990.)

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

Wysiging van artikel 1 van Wet 8 van 1959, soos gewysig deur artikel 1 van Wet 75 van 1965, artikel 46 van Wet 70 van 1968, artikel 1 van Wet 88 van 1977, artikel 1 van Wet 58 van 1978, artikel 1 van Wet 22 van 1980, Goewermentskennisgewing No. 2302 van 31 Oktober 1980, artikel 1 van Wet 43 van 1981, artikel 1 van Wet 65 van 1982, artikel 1 van Wet 104 van 1983 en artikel 1 van Wet 6 van 1985

1. Artikel 1 van die Wet op Gevangenis, 1959 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur die omskrywing van “blanke gevangene” te skrap; 10
- (b) deur die omskrywing van “boerderykolonie” te skrap;
- (c) deur voor die omskrywing van “foto” die volgende omskrywing in te voeg: “dagparool” dagparool kragtens artikel 92A aan ’n gevangene toege- staan;”;
- (d) deur die omskrywing van “Kommissie vir Administrasie” deur die volgende omskrywing te vervang: “Kommissie vir Administrasie” die Kommissie vir Administrasie bedoel in artikel [4] 2 van die [Staatsdienswet, 1957 (Wet No. 54 van 1957)] Wet op die Kommissie vir Administrasie, 1984 (Wet No. 65 van 1984);”; 15
- (e) deur die omskrywing van “nie-blanke gevangene” te skrap; 20
- (f) deur die omskrywing van “ras” te skrap;
- (g) deur na die omskrywing van “reserwemag” die volgende omskrywing in te voeg: “staak” ook enige sosio-ekonomiese, simpatie-, solidariteits-, protes-, sloer- of stiptheidstaking, asook enige ander vorm van staking of wegblyksie;”; en 25

PRISONS AMENDMENT ACT, 1990

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GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Prisons Act, 1959, so as to define or further define certain expressions and to delete certain definitions; to increase certain fines; to regulate the dismissal of commissioned officers; to regulate the dismissal of members of the Prisons Service who strike; to authorize the award of decorations and medals to any person in respect of services in aid of the Prisons Service; to further regulate the establishment of prisons; to further regulate the separation of prisoners; to provide for the transfer of juveniles from prisons to reform schools; to further regulate the procedure in case of misconduct of commissioned officers; to institute the grant of daily parole to prisoners; and to make certain textual changes; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 28 June 1990.)

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

Amendment of section 1 of Act 8 of 1959, as amended by section 1 of Act 75 of 1965, section 46 of Act 70 of 1968, section 1 of Act 88 of 1977, section 1 of Act 58 of 1978, 5 section 1 of Act 22 of 1980, Government Notice No. 2302 of 31 October 1980, section 1 of Act 43 of 1981, section 1 of Act 65 of 1982, section 1 of Act 104 of 1983 and section 1 of Act 6 of 1985

1. Section 1 of the Prisons Act, 1959 (hereinafter referred to as the principal Act), is hereby amended—

- 10 (a) by the substitution for the definition of "Commission for Administration" of the following definition:
 "‘Commission for Administration’ means the Commission for Administration referred to in section **[4]** 2 of the **[Public Service Act, 1957 (Act No. 54 of 1957)]** Commission for Administration Act, 1984 (Act No. 65 of 1984);”;
- 15 (b) by the insertion after the definition of "Commission for Administration" of the following definition:
“‘daily parole’ means daily parole granted to any prisoner in terms of section 92A;”;
- 20 (c) by the deletion of the definition of "farm colony";
- (d) by the deletion of the definition of "non-white prisoner";
- (e) by the substitution for the definition of "Public Service" of the following definition:
 “‘Public Service’ means the public service **[as defined]** referred to in section 25 **[three]** 7 of the Public Service Act **[1957 (Act No. 54 of 1957)]**, 1984 (Act No. 111 of 1984);”;
- (f) by the deletion of the definition of "race";

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

"'Staatsdiens' die Staatsdiens [soos] bedoel in artikel [drie] 7 van die Staatsdienswet [1957 (Wet No. 54 van 1957), omskryf], 1984 (Wet No. 111 van 1984);".

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Wysiging van artikel 9B van Wet 8 van 1959, soos ingevoeg deur artikel 4 van Wet 104 van 1983

2. Artikel 9B van die Hoofwet word hierby gewysig deur in subartikel (7) die uitdrukking "R300" deur die uitdrukking "R2 000" te vervang.

Wysiging van artikel 9C van Wet 8 van 1959, soos ingevoeg deur artikel 4 van Wet 104 van 1983 10

3. Artikel 9C van die Hoofwet word hierby gewysig deur in subartikel (2) die uitdrukking "R300" deur die uitdrukking "R2 000" te vervang.

Wysiging van artikel 12 van Wet 8 van 1959, soos gewysig deur artikel 4 van Wet 75 van 1965, artikel 10 van Wet 62 van 1966, artikel 2 van Wet 9 van 1971, artikel 3 van Wet 58 van 1978 en artikel 5 van Wet 104 van 1983 15

4. Artikel 12 van die Hoofwet word hierby gewysig deur in subartikel (10) die uitdrukking "honderd rand" deur die uitdrukking "R2 000" te vervang.

Invoeging van artikels 13A en 13B in Wet 8 van 1959

5. Die volgende artikels word hierby in die Hoofwet na artikel 13 ingevoeg: 20

"Ontslag van lede van Gevangenisdiens wat offisiere is

13A. Ondanks die bepalings van hierdie Wet kan die Minister, en moet hy indien deur die Staatspresident daartoe gelas, 'n offisier summier uit die diens van die Gevangenisdiens ontslaan indien—

- (a) die offisier 'n vonnis van gevangenisstraf uitdien; of
- (b) die offisier skuldig bevind word aan enige misdryf vermeld in artikel 12, 14, 43, 44, 45, 46 of 47.

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Summiere ontslag van lede van Gevangenisdiens wat staak

13B. Indien die Kommissaris van oordeel is dat 'n lid van die Gevangenisdiens staak of met iemand anders saamspan om te staak of iemand uitlok, aanstig of beveel om te staak, kan hy, nadat hy die lid 'n geleentheid gebied het om aangehoor te word, sodanige lid summier uit die Gevangenisdiens ontslaan: Met dien verstande dat—

- (a) sodanige lid so gou moontlik na die datum van daardie ontslag, skriftelik van die ontslag in kennis gestel moet word, met vermelding van die redes vir die ontslag;
- (b) sodanige lid binne 30 dae na die datum van ontvangs van die kennisgewing, skriftelik vertoë tot die Minister kan rig aangaande die opheffing van die ontslag;
- (c) die Minister, na oorweging van die vertoë, die lid in sy diens kan herstel vanaf die datum waarop hy ontslaan is."

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Vervanging van artikel 14 van Wet 8 van 1959, soos vervang deur artikel 7 van Wet 104 van 1983

6. Artikel 14 van die Hoofwet word hierby deur die volgende artikel vervang:

"Lede van Gevangenisdiens kan weens aanranding op gevangenes ontslaan word.

14. 'n Lid van die Gevangenisdiens [behalwe 'n offisier] wat skuldig bevind word aan aanranding op 'n gevangene kan, bo en behalwe enige ander straf daarvoor opgelê, uit die diens van die Gevangenisdiens

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- (g) by the insertion after the definition of "reserve force" of the following definition:

"strike" includes any socio-economic, sympathy, solidarity, protest, work to rule or precision strike, as well as any other form of strike or stay-away; and

- (h) by the deletion of the definition of "white prisoner".

Amendment of section 9B of Act 8 of 1959, as inserted by section 4 of Act 104 of 1983

2. Section 9B of the principal Act is hereby amended by the substitution in subsection (7) for the expression "R300" of the expression "R2 000".

10 Amendment of section 9C of Act 8 of 1959, as inserted by section 4 of Act 104 of 1983

3. Section 9C of the principal Act is hereby amended by the substitution in subsection (2) for the expression "R300" of the expression "R2 000".

15 Amendment of section 12 of Act 8 of 1959, as amended by section 4 of Act 75 of 1965, section 10 of Act 62 of 1966, section 2 of Act 9 of 1971, section 3 of Act 58 of 1978 and section 5 of Act 104 of 1983

4. Section 12 of the principal Act is hereby amended by the substitution in subsection (10) for the expression "one hundred rand" of the expression "R2 000".

Insertion of sections 13A and 13B in Act 8 of 1959

5. The following sections are hereby inserted in the principal Act after section 13:

20 "Discharge of commissioned members of Prisons Service"

13A. Notwithstanding the provisions of this Act the Minister may, and shall if ordered thereto by the State President, discharge a commissioned officer from the service of the Prisons Service summarily if—

- 25 (a) that commissioned officer is serving a sentence of imprisonment; or
(b) that commissioned officer is convicted of any offence referred to in section 12, 14, 43, 44, 45, 46 or 47.

Summary dismissal of members of Prisons Service who strike

30 **13B.** If the Commissioner is of the opinion that a member of the Prisons Service strikes or conspires with another person to strike or incites, instigates or commands another person to strike, he may, after affording such a member the opportunity to be heard, summarily dismiss such member from the Prisons Service: Provided that—

- 35 (a) such member shall as soon as practicable after the date of such dismissal be notified in writing of the dismissal, the reasons for the dismissal being stated;
(b) such member may, within 30 days after the date of receipt of the notice, make written representations to the Minister regarding the revocation of the dismissal;
40 (c) the Minister may, after having considered the representations, reinstate such member in his employment as from the date of his dismissal."

Substitution of section 14 of Act 8 of 1959, as substituted by section 7 of Act 104 of 1983

6. The following section is hereby substituted for section 14 of the principal Act:

45 "Members of Prisons Service may be discharged for assaulting prisoners"

14. Any member of the Prisons Service [other than a commissioned officer] who is convicted of assaulting any prisoner may, in addition to any other penalty imposed therefor, be discharged from the service of the

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ontslaan word, en indien hy aldus ontslaan is, word hy nie weer as 'n lid van die Gevangenisdiens aangestel nie.”.

Wysiging van artikel 17 van Wet 8 van 1959, soos gewysig deur artikel 7 van Wet 75 van 1965

7. Artikel 17 van die Hoofwet word hierby gewysig deur in subartikel (3) die uitdrukking “vyftig rand” deur die uitdrukking “R1 000” te vervang.

Wysiging van artikel 19 van Wet 8 van 1959

8. Artikel 19 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Staatspresident kan dekorasies en medaljes, asook balke, gespes en linte met betrekking tot sodanige dekorasies en medaljes, instel, daarstel en invoer wat, onderworpe aan die by regulasie voorgeskrewe voorwaardes, deur hom of deur die Minister aan iemand wat 'n lid van die Gevangenisdiens is of was ten opsigte van sy dienste as so 'n lid, of aan enige ander persoon ten opsigte van sy bydrae tot die ontwikkeling en administrasie van gevangenis in die Republiek, toegeken kan word.”.

Vervanging van artikel 20 van Wet 8 van 1959, soos gewysig deur artikel 3 van Wet 88 van 1977

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

“Instelling van gevangenis en betekenis van ‘tronk’ in ander wetsbepalings

20. (1) Die Minister kan by kennisgewing in die *Staatskoerant* gevangenis instel—

(a) vir die opneming, aanhouding, opsluiting, opleiding en behandeling van persone wat in bewaring aangehou moet word, hetsy kragtens 'n vonnis van 'n hof of voor veroordeling, of wat andersins kragtens 'n wetsbepaling aangehou, opgesluit of behandel moet word;

(b) vir die aanhouding, behandeling en opleiding van—

(i) jeugdige wat in bewaring aangehou moet word en sodanige gevangenes bo die ouderdom van een-en-twintig jaar as wat, as gevolg van hulle onrypheid, volgens die oordeel van die Kommissaris meer gepas as jeugdige geklassifiseer kan word; en

(ii) ander veroordeelde gevangenes as dié in subparagraaf (i) bedoel;

(c) om as waarnemingsentra te dien om die ouderdom, gesondheidstoestand, verstandelike toestand, karaktereienskappe, sosiale agtergrond, vorige gedrag, vermoë om te werk, aanleg en opleiding te bepaal van gekeurde gevangenes met die oog op hul klassifisering en opleiding;

(d) vir die aanhouding en geneeskundige behandeling van kroniese siek of swak gevangenes wat om die een of ander rede nie in 'n gewone gevangenis behandel kan word nie;

(dA) van die soort bekend as hospitaalgevangenis vir psigopate waar gevangenes aangehou kan word wat—

(i) ingevolge die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973), as psigopate gesertifiseer is; of

(ii) oënskynlik aan psigopatiese steurings ly en ingevolge enige wet met betrekking tot geestesongestelde persone vir waarneming verwys is;

[(e) van die soort bekend as boerderykolonies waarheen persone wat ingevolge die Swartes (Stadsgebiede) Konsolidasiewet, 1945 (Wet No. 25 van 1945), verklaar is ledige persone te wees, gestuur kan word om gewoontes van vlyt en arbeid aan te leer; en]

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Prisons Service and if he has been so discharged, he shall not be reappointed as a member of the Prisons Service.”.

Amendment of section 17 of Act 8 of 1959, as amended by section 7 of Act 75 of 1965

- 5 7. Section 17 of the principal Act is hereby amended by the substitution in subsection (3) for the expression “fifty rand” of the expression “R1 000”.

Amendment of section 19 of Act 8 of 1959

8. Section 19 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- 10 “(1) The State President may institute, constitute and create decorations and medals, as well as bars, clasps and ribbons in respect of such decorations and medals, which may be awarded by him or by the Minister subject to such conditions as may be prescribed by regulation to any person who is or was a member of the Prisons Service, in respect of his services as such member, or to
15 any other person in respect of his contribution to the development and administration of prisons in the Republic.”.

Substitution of section 20 of Act 8 of 1959, as amended by section 3 of Act 88 of 1977

- 20 9. The following section is hereby substituted for section 20 of the principal Act:

“Establishment of prisons and meaning of ‘gaol’ in other laws

20. (1) The Minister may, by notice in the *Gazette*, establish prisons—
(a) for the reception, detention, confinement, training and treatment of persons liable to detention in custody, whether under sentence of court, or prior to sentence, or otherwise requiring by law to be detained, confined or treated;
25 (b) for the detention, treatment and training of—
 (i) juveniles liable to detention in custody and such prisoners over the age of twenty-one years as, by reason of their immaturity, may in the opinion of the Commissioner more appropriately be classified as juveniles; and
30 (ii) convicted prisoners other than those referred to in subparagraph (i);
(c) to serve as observation centres for determining the age, health, mental condition, character traits, social background, previous conduct, ability to work, aptitude and training of selected prisoners with a view to their classification and training;
35 (d) for the detention and medical treatment of chronic sick or infirm prisoners who for any reason cannot be treated in an ordinary prison;
40 (dA) of the type known as hospital prisons for psychopaths at which prisoners are detained who—
 (i) have been certified as psychopaths in terms of the Mental Health Act, 1973 (Act No. 18 of 1973); or
45 (ii) apparently are suffering from psychopathic disorders and have been referred for observation in terms of any law relating to mentally ill persons;
50 [(e) of the type known as farm colonies to which persons declared to be idle persons in terms of the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), may be sent to learn habits of industry and labour; and]

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(f) van sodanige ander soorte as wat hy van tyd tot tyd nodig ag om in te stel ingevolge 'n skema vir die verbetering en rehabilitasie van persone wat weens 'n misdryf skuldig bevind en gevonnissen is tot 'n tydperk van gevangensetting of aanhouding.

(2) 'n Gevangenis kragtens paragraaf (a) van subartikel (1) ingestel, kan een of meer distrikte dien volgens vereiste van omstandighede; en vir die doeleindes van enige wetsbepaling met betrekking tot landdroshowe word 'n gevangenis wat ingestel is om meer as een distrik te dien, geag die gevangenis van elke distrik te wees wat deur daardie gevangenis gedien word.

(3) 'n Verwysing in enige wetsbepaling na 'n 'tronk' of na 'n 'gevangenis of tronk' of na 'n 'gevangenis en tronk' word uitgelê as 'n verwysing na 'n gevangenis soos in hierdie Wet omskryf [en 'n verwysing in enige wetsbepaling na 'n 'boerderykolonie' word uitgelê as 'n verwysing na 'n boerderykolonie soos in hierdie Wet omskryf']."

Vervanging van artikel 23 van Wet 8 van 1959

10. Artikel 23 van die Hoofwet word hierby deur die volgende artikel vervang:

"Skeiding van gevangenes

23. (1) In elke gevangenis word manlike en vroulike gevangenes in aparte afdelings daarvan aangehou.

(2) Indien die Kommissaris, of 'n offisier deur hom aangewys, van oordeel is dat dit vir die behandeling, opleiding, rehabilitasie of welsyn van 'n bepaalde gevangene of gevangenes of gevangenes van 'n bepaalde klas of vir die dissipline, goeie orde of veiligheid in 'n bepaalde gevangenis nodig is, kan hy of so 'n offisier, na gelang van die geval, behoudens subartikel (1) gelas dat bedoelde gevangene of gevangenes of die gevangenes van bedoelde klas van ander gevangenes geskei en afsonderlik aangehou word."

Wysiging van artikel 29 van Wet 8 van 1959, soos gewysig deur artikel 104 van Wet 33 van 1960, artikel 8 van Wet 75 van 1965 en artikel 9 van Wet 104 van 1983

11. Artikel 29 van die Hoofwet word hierby gewysig—

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

"(1) 'n Persoon onder die ouderdom van agtien jaar wat daarvan beskuldig word dat hy 'n misdryf gepleeg het, word vóór sy veroordeling nie in 'n gevangenis of 'n polisieel of -opsluitplek aangehou nie, tensy sy aanhouding noodsaaklik is en geen geskikte [plek van bewaring] veiligheidsplek genoem in artikel [agt-en-dertig] 28 van die [Kinderwet, 1960 (Wet No. 33 van 1960)] Wet op Kindersorg, 1983 (Wet No. 74 van 1983), vir sy aanhouding beskikbaar is nie."; en

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Wanneer besluit word oor die geskiktheid van 'n plek vir die aanhouding van 'n in subartikel (1) bedoelde persoon, kan die aard van die misdryf waarvan hy aangekla word en sy ouderdom, geslag [ras] en karakter in aanmerking geneem word."

Wysiging van artikel 34 van Wet 8 van 1959, soos vervang deur artikel 5 van Wet 88 van 1977

12. Artikel 34 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) 'n Gevangene wat, terwyl hy 'n vonnis van gevangenisstraf uitdien, na 'n inrigting soos omskryf in artikel 1 van die Wet op Geestesgesondheid, 1973, of 'n hospitaalgevangenis vir psigopate oorgeplaas word, moet, sodra hy geskik is om daaruit ontslaan te word, deur die owerhede van daardie inrigting of hospitaalgevangenis vir psigopate [na 'n gevangenis of hospitaalgevangenis vir psigopate], na gelang van die geval, teruggestuur word om die vonnis wat as gevolg van sy oorplasing na daardie inrigting of hospitaalgevangenis vir psigopate onderbreek is, te voltooi."

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(f) of such other types as he may from time to time deem necessary to establish in pursuance of any scheme for the reformation and rehabilitation of persons convicted of any offence and sentenced to any period of imprisonment or detention.

(2) Any prison established under paragraph (a) of subsection (1) may serve one or more districts as circumstances may require; and for the purposes of any law relating to magistrates' courts any prison established to serve more than one district shall be deemed to be the prison of each district served by that prison.

(3) Any reference in any law to a 'gaol' or to a 'prison or gaol' or to a 'prison and gaol' shall be read as referring to a prison as defined in this Act **[and any reference in any law to a 'farm colony' shall be read as referring to a farm colony as defined in this Act].**

Substitution of section 23 of Act 8 of 1959

10. The following section is hereby substituted for section 23 of the principal Act:

"Separation of prisoners

23. (1) In every prison men and women prisoners shall be detained in separate parts thereof.

(2) If the Commissioner, or any officer designated by him, is of the opinion that it is necessary for the treatment, training, rehabilitation or welfare of a specific prisoner or prisoners or prisoners of a specific class or for the discipline, good order or security in a specific prison, he or such an officer, as the case may be, may, subject to subsection (1), order that the said prisoner or prisoners or prisoners of the said class be separated from other prisoners and detained separately."

Amendment of section 29 of Act 8 of 1959, as amended by section 104 of Act 33 of 1960, section 8 of Act 75 of 1965 and section 9 of Act 104 of 1983

11. Section 29 of the principal Act is hereby amended—

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

"(1) A person under the age of eighteen years who is accused of having committed an offence shall before his conviction not be detained in a prison or a police cell or lock-up unless his detention is necessary and no suitable place of **[detention]** safety mentioned in section **[thirty eight]** 28 of the **[Children's Act, 1960 (Act No. 33 of 1960)]** Child Care Act, 1983 **(Act No. 74 of 1983)**, is available for his detention."; and

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

"(2) In deciding as to the suitability of any place for the detention of a person referred to in subsection (1) regard may be had to the nature of the offence with which he is charged and to his age, sex **[race]** and character."

Amendment of section 34 of Act 8 of 1959, as substituted by section 5 of Act 88 of 1977

12. Section 34 of the principal Act is hereby amended by the substitution for subsection (1) in the Afrikaans text of the following subsection:

"(1) 'n Gevangene wat, terwyl hy 'n vonnis van gevangenisstraf uitdien, na 'n inrigting soos omskryf in artikel 1 van die Wet op Geestesgesondheid, 1973, of 'n hospitaalgevangenis vir psigopate oorgeplaas word, moet, sodra hy geskik is om daaruit ontslaan te word, deur die owerhede van daardie inrigting of hospitaalgevangenis vir psigopate **[na 'n gevangenis of hospitaalgevangenis vir psigopate]**, na gelang van die geval, teruggestuur word om die vonnis wat as gevolg van sy oorplasing na daardie inrigting of hospitaalgevangenis vir psigopate onderbreek is, te voltooi."

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Herroeping van artikel 40 van Wet 8 van 1959

13. Artikel 40 van die Hoofwet word hierby herroep.

Wysiging van artikel 41 van Wet 8 van 1959, soos gewysig deur artikel 10 van Wet 75 van 1965

14. Artikel 41 van die Hoofwet word hierby gewysig deur die uitdrukking "vyftig 5
rand" deur die uitdrukking "R1 000" te vervang.

Wysiging van artikel 42 van Wet 8 van 1959, soos gewysig deur artikel 11 van Wet 75 van 1965

15. Artikel 42 van die Hoofwet word hierby gewysig deur die uitdrukking
"honderd rand" deur die uitdrukking "R2 000" te vervang. 10

Wysiging van artikel 44 van Wet 8 van 1959, soos vervang deur artikel 6 van Wet 88 van 1977 en gewysig deur artikel 10 van Wet 104 van 1983

16. Artikel 44 van die Hoofwet word hierby gewysig deur in subartikel (1) die
uitdrukking "tweeënduisend rand" deur die uitdrukking "R8 000" te vervang.

Wysiging van artikel 45 van Wet 8 van 1959, soos vervang deur artikel 11 van Wet 104 van 1983

17. Artikel 45 van die Hoofwet word hierby gewysig deur die uitdrukking
"R1 000" deur die uitdrukking "R4 000" te vervang.

Wysiging van artikel 46 van Wet 8 van 1959, soos gewysig deur artikel 14 van Wet 75 van 1965, artikel 5 van Wet 43 van 1981 en artikel 12 van Wet 104 van 1983

18. Artikel 46 van die Hoofwet word hierby gewysig deur in subartikel (3) die
uitdrukking "R1 000" deur die uitdrukking "R4 000" te vervang.

Wysiging van artikel 47 van Wet 8 van 1959, soos vervang deur artikel 13 van Wet 104 van 1983

19. Artikel 47 van die Hoofwet word hierby gewysig deur die uitdrukking 25
"R2 000" deur die uitdrukking "R8 000" te vervang.

Wysiging van artikel 50 van Wet 8 van 1959, soos gewysig deur artikel 16 van Wet 75 van 1965

20. Artikel 50 van die Hoofwet word hierby gewysig deur in subartikel (2) die
uitdrukking "honderd rand" deur die uitdrukking "R2 000" te vervang. 30

Wysiging van artikel 53 van Wet 8 van 1959, soos gewysig deur artikel 17 van Wet 75 van 1965, artikel 4 van Wet 4 van 1972, artikel 11 van Wet 58 van 1978 en artikel 4 van Wet 22 van 1980

21. Artikel 53 van die Hoofwet word hierby gewysig deur in paragraaf (c) van
subartikel (2) die uitdrukking "sestig rand" deur die uitdrukking "R200" te vervang. 35

Wysiging van artikel 55 van Wet 8 van 1959, soos gewysig deur artikel 49 van Wet 70 van 1968, artikel 13 van Wet 58 van 1978, artikel 4 van Wet 65 van 1982 en artikel 32 van Wet 97 van 1986

22. Artikel 55 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (6) subparagraaf (iii) van paragraaf (d) deur die volgende 40
subparagraaf te vervang:

"(iii) 'n boete van hoogstens [eenhonderd rand] R300 oplê, wat by wyse van
aftrekkings van die salaris of toelaes van die betrokke offisier verhaal
kan word: Met dien verstande dat die Minister die betaling van enige

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Repeal of section 40 of Act 8 of 1959

13. Section 40 of the principal Act is hereby repealed.

Amendment of section 41 of Act 8 of 1959, as amended by section 10 of Act 75 of 1965

14. Section 41 of the principal Act is hereby amended by the substitution for the
5 expression "fifty rand" of the expression "R1 000".

Amendment of section 42 of Act 8 of 1959, as amended by section 11 of Act 75 of 1965

15. Section 42 of the principal Act is hereby amended by the substitution for the
expression "one hundred rand" of the expression "R2 000".

**Amendment of section 44 of Act 8 of 1959, as substituted by section 6 of Act 88 of 1977
10 and amended by section 10 of Act 104 of 1983**

16. Section 44 of the principal Act is hereby amended by the substitution in
subsection (1) for the expression "two thousand rand" of the expression "R8 000".

**Amendment of section 45 of Act 8 of 1959, as substituted by section 11 of Act 104 of
1983**

15 17. Section 45 of the principal Act is hereby amended by the substitution for the
expression "R1 000" of the expression "R4 000".

**Amendment of section 46 of Act 8 of 1959, as amended by section 14 of Act 75 of 1965,
section 5 of Act 43 of 1981 and section 12 of Act 104 of 1983**

18. Section 46 of the principal Act is hereby amended by the substitution in
20 subsection (3) for the expression "R1 000" of the expression "R4 000".

**Amendment of section 47 of Act 8 of 1959, as substituted by section 13 of Act 104 of
1983**

19. Section 47 of the principal Act is hereby amended by the substitution for the
expression "R2 000" of the expression "R8 000".

25 Amendment of section 50 of Act 8 of 1959, as amended by section 16 of Act 75 of 1965

20. Section 50 of the principal Act is hereby amended by the substitution in
subsection (2) for the expression "one hundred rand" of the expression "R2 000".

**Amendment of section 53 of Act 8 of 1959, as amended by section 17 of Act 75 of 1965,
section 4 of Act 4 of 1972, section 11 of Act 58 of 1978 and section 4 of Act 22 of 1980**

30 21. Section 53 of the principal Act is hereby amended by the substitution in
paragraph (c) of subsection (2) for the expression "sixty rand" of the expression
"R200".

**Amendment of section 55 of Act 8 of 1959, as amended by section 49 of Act 70 of 1968,
section 13 of Act 58 of 1978, section 4 of Act 65 of 1982 and section 32 of Act 97 of 1986**

35 22. Section 55 of the principal Act is hereby amended—

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

"(iii) impose a fine not exceeding **[one hundred rand]** R300, which may be
recovered by way of stoppages from the salary or allowances of the
officer concerned: Provided that the Minister may suspend the pay-

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boete wat aldus opgelê is, of enige gedeelte van daardie boete, kan opskort vir 'n tydperk van hoogstens drie jaar op enige voorwaarde betreffende goeie gedrag of enige ander aangeleentheid; of"; en

(b) deur in paragraaf (d) van subartikel (6) na subparagraaf (iii) die volgende subparagraaf in te voeg:

“(iiiA) gelas dat die saak weer vir afhandeling ingevolge hierdie artikel aan hom voorgelê word na verstryking van die tydperk, maar hoogstens 12 maande, wat hy bepaal; of”.

Wysiging van artikel 61 van Wet 8 van 1959, soos vervang deur artikel 7 van Wet 22 van 1980

23. Artikel 61 van die Hoofwet word hierby gewysig deur subparagraaf (v) van paragraaf (b) te skrap.

Herroeping van artikel 65 van Wet 8 van 1959

24. Artikel 65 van die Hoofwet word hierby herroep.

Vervanging van artikel 74 van Wet 8 van 1959, soos gewysig deur artikel 22 van Wet 75 van 1965 en artikel 16 van Wet 104 van 1983

25. Artikel 74 van die Hoofwet word hierby deur die volgende artikel vervang:

“Oorplasing van persone van verbeteringskool na gevangenis

74. (1) Ondanks andersluidende bepalings in die **[Kinderwet, 1960 (Wet No. 33 van 1960)]** Wet op Kindersorg, 1983 (Wet No. 74 van 1983), of enige ander wet, kan die Minister soos in genoemde Wet omskryf, in oorleg met die Minister, by skriftelike bevel enige persoon wat **[aangehou word in 'n verbeteringshuis]** opleiding ontvang in 'n verbeteringskool wat deur daardie Wet beheer word, oorplaas na 'n deur die Minister aangewese gevangenis, indien daardie persoon volgens sy oordeel 'n tipe persoon is wat nie vir opleiding in 'n **[verbeteringshuis]** verbeteringskool vatbaar is nie.

(2) Iemand wat ingevolge subartikel (1) na 'n gevangenis oorgeplaas is, word vir alle doeleindes geag van die bepalings van die **[Kinderwet, 1960]** Wet op Kindersorg, 1983, onthef te gewees het en *mutatis mutandis* onderworpe te wees aan al die bepalings van hierdie Wet asof hy op die datum van sy oorplasing gevonnissen was tot twee jaar gevangenisstraf: Met dien verstande dat hy kragtens hierdie artikel nie onder hierdie Wet aangehou mag word vir 'n tydperk na die datum waarop hy normaalweg uit die **[verbeteringshuis]** verbeteringskool vrygelaat sou geword het indien hy nie aldus oorgeplaas was nie.”.

Invoeging van artikel 74A in Wet 8 van 1959

26. Die volgende artikel word hierby in die Hoofwet na artikel 74 ingevoeg:

“Oorplasing van veroordeelde jeugdiges van gevangenis na verbeteringskool

74A. Die Minister kan, in oorleg met die Minister soos in die Wet op Kindersorg, 1983 (Wet No. 74 van 1983), omskryf, by skriftelike bevel iemand onder die leeftyd van 21 jaar wat in 'n gevangenis gevangenisstraf ondergaan, oorplaas na 'n verbeteringskool wat deur die Wet op Kindersorg, 1983, beheer word, en vanaf die datum van die bevel word bedoelde persoon geag na daardie verbeteringskool gestuur te gewees het kragtens artikel 290 van die Strafproseswet, 1977 (Wet No. 51 van 1977).”.

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ment of any fine so imposed, or any part of that fine, for a period not exceeding three years on any condition relating to good conduct or any other matter; or"; and

- (b) by the insertion in paragraph (d) of subsection (6) after subparagraph (iii) of the following subparagraph:

"(iiiA) direct that the matter be resubmitted to him for disposal in terms of this section after the expiry of such period, not exceeding 12 months, as he may specify; or".

Amendment of section 61 of Act 8 of 1959, as substituted by section 7 of Act 22 of 1980

23. Section 61 of the principal Act is hereby amended by the deletion of subparagraph (v) of paragraph (b).

Repeal of section 65 of Act 8 of 1959

24. Section 65 of the principal Act is hereby repealed.

Substitution of section 74 of Act 8 of 1959, as amended by section 22 of Act 75 of 1965 and section 16 of Act 104 of 1983

25. The following section is hereby substituted for section 74 of the principal Act:

"Transfer of persons from reform school to prison

74. (1) Notwithstanding anything contained in the **[Children's Act, 1960 (Act No. 33 of 1960)]** Child Care Act, 1983 (Act No. 74 of 1983), or any other law, the Minister as defined in the said Act may, in consultation with the Minister, by order in writing transfer to a prison designated by the Minister any person **[detained in a reformatory]** receiving training in a reform school governed by that Act, if, in his opinion, such person is a type of person who is not amenable to training in a **[reformatory]** reform school.

(2) A person transferred to a prison in terms of subsection (1) shall for all purposes be deemed to have been released from the provisions of the **[Children's Act, 1960]** Child Care Act, 1983, and to be subject, *mutatis mutandis*, to all the provisions of this Act as if he had on the date of his transfer been sentenced to two years' imprisonment: Provided that he shall not under this section be detained under this Act for a period beyond the date upon which he would normally have been released from the **[reformatory]** reform school had he not been so transferred."

Insertion of section 74A in Act 8 of 1959

26. The following section is hereby inserted in the principal Act after section 74:

"Transfer of convicted juveniles from prison to reform school

74A. The Minister may, in consultation with the Minister as defined in the Child Care Act, 1983 (Act No. 74 of 1983), by order in writing transfer any person under the age of 21 years who is undergoing in any prison a sentence of imprisonment, to a reform school governed by the Child Care Act, 1983, and from the date of that order that person shall be deemed to have been sent to that reform school under section 290 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)."

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Invoeging van artikel 92A in Wet 8 van 1959

27. Die volgende artikel word hierby in die Hoofwet na artikel 92 ingevoeg:

“Dagparool

92A. (1) Ondanks die bepalings van die lasbrief waarkragtens 'n gevangene in bewaring aangehou word, kan die Kommissaris ten opsigte van 'n gevangene wat enige tydperk van gevangenisstraf uitdien en ongeag of die gevangenisstraf met of sonder die keuse van 'n boete opgelê is, by skriftelike bevel dagparool aan sodanige gevangene toestaan op die voorwaardes en vir die tydperke daarin vermeld. 5

(2) Dagparool kragtens subartikel (1) toegestaan, kan te eniger tyd deur die Kommissaris ingetrek word. 10

(3) By 'n intrekking van dagparool beoog in subartikel (2) moet die Kommissaris die betrokke gevangene diensooreenkomstig in kennis stel en, indien hy hom buite 'n gevangenis bevind, op die voorgeskrewe wyse gelas om na 'n gevangenis terug te keer. 15

(4) 'n Gevangene aan wie dagparool kragtens subartikel (1) toegestaan is en wat—

- (a) versuim om hom ooreenkomstig die bepalings van die betrokke bevel by 'n gevangenis aan te meld; of
- (b) nadat hy ingevolge subartikel (3) gelas is om terug te keer, versuim om onverwyld na 'n gevangenis terug te keer, word by die toepassing van artikel 48 geag uit 'n gevangenis te ontvlug het.”. 20

Wysiging van artikel 94 van Wet 8 van 1959, soos gewysig deur artikel 37 van Wet 80 van 1964, artikel 24 van Wet 75 van 1965, artikel 17 van Wet 101 van 1969, artikel 8 van Wet 92 van 1970, artikel 17 van Wet 62 van 1973, artikel 6 van Wet 43 van 1981, artikel 20 van Wet 104 van 1983 en artikel 46 van Wet 97 van 1986 25

28. Artikel 94 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) na paragraaf (aa) die volgende paragraaf in te voeg: “(aa)bis enige aangeleentheid in verband met dagparool;”; 30
- (b) deur in paragraaf (a) van subartikel (2) die uitdrukking “honderd rand” deur die uitdrukking “R2 000” te vervang; en
- (c) deur in paragraaf (c) van subartikel (2) die uitdrukking “honderd rand” deur die uitdrukking “R2 000” te vervang.

Wysiging van artikel 95 van Wet 8 van 1959, soos gewysig deur artikel 14 van Wet 62 van 1966 35

29. Artikel 95 van die Hoofwet word hierby gewysig deur paragraaf (c) deur die volgende paragraaf te vervang:

- “(c) elke bandietetronk, tronk **[boerderykolonie]** of ander inrigting kragtens 'n bepaling van so 'n wet ingestel, geag word as 'n gevangenis kragtens die ooreenstemmende bepaling van hierdie Wet ingestel te gewees het, nieteenstaande dat die naam daarvan deur hierdie Wet verander word;”. 40

Kort titel

30. Hierdie Wet heet die Wysigingswet op Gevangenis, 1990.

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Insertion of section 92A in Act 8 of 1959

27. The following section is hereby inserted in the principal Act after section 92:

“Daily parole

5 **92A.** (1) Notwithstanding the provisions of the warrant under which a prisoner is being detained in custody, the Commissioner may in respect of a prisoner serving any period of imprisonment and irrespective of whether the imprisonment was imposed with or without the option of a fine, by written order grant daily parole to such a prisoner on the conditions and for the periods specified therein.

10 (2) Daily parole granted under subsection (1) may at any time be cancelled by the Commissioner.

15 (3) On any cancellation of daily parole contemplated in subsection (2) the Commissioner shall notify the prisoner accordingly and, if he is outside a prison, direct him in the prescribed manner to return to a prison.

 (4) Any prisoner to whom daily parole has been granted under subsection (1) and who—

20 (a) fails to report at a prison in accordance with the order concerned; or
 (b) after he has been directed to return in terms of subsection (3), fails to return to a prison forthwith,
 shall for the purposes of section 48 be deemed to have escaped from a prison.”.

25 **Amendment of section 94 of Act 8 of 1959, as amended by section 37 of Act 80 of 1964, section 24 of Act 75 of 1965, section 17 of Act 101 of 1969, section 8 of Act 92 of 1970, section 17 of Act 62 of 1973, section 6 of Act 43 of 1981, section 20 of Act 104 of 1983 and section 46 of Act 97 of 1986**

28. Section 94 of the principal Act is hereby amended—

30 (a) by the insertion in subsection (1) after paragraph (aa) of the following paragraph:

 “(aa)bis any matter in connection with daily parole;”;

 (b) by the substitution in paragraph (a) of subsection (2) for the expression “one hundred rand” of the expression “R2 000”; and

 (c) by the substitution in paragraph (c) of subsection (2) for the expression “one hundred rand” of the expression “R2 000”.

35 **Amendment of section 95 of Act 8 of 1959, as amended by section 14 of Act 62 of 1966**

29. Section 95 of the principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph:

40 “(c) every convict prison, gaol [farm colony] or other institution established under any provision of any such law shall be deemed to have been established as a prison under the corresponding provision of this Act, notwithstanding that the name thereof is altered by this Act;”.

Short title

30. This Act shall be called the Prisons Amendment Act, 1990.

