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No. 10922

STATE PRESIDENT'S OFFICE

No. 2075.

23 September 1987

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

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

KANTOOR VAN DIE STAATSPRESIDENT

No. 2075.

23 September 1987

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

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

Act No. 55, 1987

MENTAL HEALTH AMENDMENT ACT, 1987

GENERAL EXPLANATORY NOTE:

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

Words underlined with solid line indicate insertions in existing enactments.

ACT

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

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

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

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

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

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

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

(b) by the substitution for the definition of "Minister" of 10 the following definition:

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

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

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

Insertion of section 35A in Act 18 of 1973.

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

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

35A. (1) Notwithstanding the order under which a

President's patient is being detained, the superintendent of the institution or the person in charge of the place where that President's patient is being detained may in accordance with the prescribed conditions grant leave to that President's patient to be absent from any such institution or place, as the case may be. 25

(2) Leave granted under subsection (1)— 30

(a) may at any time be cancelled by the relevant superintendent or person; and

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

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 Geestesgesondheid, 1973, ten einde uitgediende benamings te verander; die Minister van Justisie te magtig om werksaamhede of pligte ingevolge genoemde Wet aan hom toegewys, op te dra; en verlof aan Presidentspasiente te verleen om afwesig te wees van inrigtings of plekke waar hulle aangehou word; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 9 September 1987.)

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

1. Artikel 1 van die Wet op Geestesgesondheid, 1973, word hierby gewysig—
 - 5 (a) deur die omskrywing van "Direkteur-generaal" deur die volgende omskrywing te vervang:
"Direkteur-generaal" die Direkteur-generaal: Nasionale Gesondheid en [Welsyn] Bevolkingsontwikkeling;" en
 - 10 (b) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:
"Minister" die Minister van Nasionale Gesondheid en [Welsyn] Bevolkingsontwikkeling, behalwe—
 - 15 (i) in artikels 28 en 30 tot en met 41, waar dit die Minister van Justisie beteken; of
 - (ii) in artikel 74A, waar dit die Minister van Nasionale Gesondheid en Bevolkingsontwikkeling of die Minister van Justisie, na gelang van die geval, beteken;"
- 20 2. Die volgende artikel word hierby na artikel 35 van die Wet op Geestesgesondheid, 1973, ingevoeg:

35A. (1) Ondanks die bevel waarkragtens 'n Presidentspasient aangehou word, kan die superintendent van die inrigting of die persoon in beheer van die plek waar daardie Presidentspasient aangehou word, ooreenkomstig die voorgeskrewe voorwaardes verlof aan daardie Presidentspasient toestaan om afwesig te wees van so 'n inrigting of plek, na gelang van die geval.

(2) Verlof kragtens subartikel (1) toegestaan—

 - (a) kan te eniger tyd deur die betrokke superintendent of persoon ingetrek word; en
 - (b) moet deur so 'n superintendent of persoon ingetrek word indien die Direkteur-generaal aldus gelas.

Wysiging van artikel 1 van Wet 18 van 1973, soos gewysig deur artikel 1 van Wet 10 van 1978, artikel 1 van Wet 38 van 1981 en artikel 1 van Wet 3 van 1984.

Invoeging van artikel 35A in Wet 18 van 1973.

"Verlof aan Presidentspasiente om afwesig te wees van sekere inrigtings of plekke.

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

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

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

Amendment of
section 74 of
Act 18 of 1973.

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

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

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

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

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

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

“(1) Where—

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

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

“(2) The—

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

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

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(3) By so 'n intrekking moet die betrokke superintendent of persoon die betrokke Presidentspatiënt gelas om terug te keer na die inrigting of plek ten opsigte waarvan verlof om afwesig te wees aan hom toegestaan is.

(4) 'n Presidentspatiënt aan wie verlof kragtens subartikel (1) toegestaan is om afwesig te wees van die inrigting of plek waar hy aangehou word en wat—

(a) versuim om by verstryking van bedoelde verlof by so 'n inrigting of plek, na gelang van die geval, terug te wees; of

(b) nadat hy ingevolge subartikel (3) gelas is om terug te keer, versuim om onverwyld na so 'n inrigting of plek, na gelang van die geval, terug te keer,

word by die toepassing van artikels 64 en 70 geag uit so 'n inrigting of plek, na gelang van die geval, te ontsnap het.”.

20 3. (1) Artikel 74 van die Wet op Geestesgesondheid, 1973, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

Wysiging van
artikel 74 van
Wet 18 van 1973.

25 “(1) 'n Bevel, lasbrief of dokument wat ingevolge hierdie Wet deur die Minister of die Minister van Justisie, na gelang van die geval, uitgereik kan word, is geldig en van krag indien dit onderteken is deur 'n beamppte in die staatsdiens wat deur die betrokke Minister by kennisgewing in die Staatskoerant daartoe aangewys is, en is, indien aldus onderteken, bewys in 'n geregshof en in 'n openbare kantoor

30 en vir enige ander relevante doel dat dit ingevolge die bepalinge van hierdie Wet uitgereik is.”.

(2) Subartikel (1) word geag op 22 Augustus 1975 in werking te getree het.

35 4. Artikel 74B van die Wet op Geestesgesondheid, 1973, word hierby gewysig—

Wysiging van
artikel 74B van
Wet 18 van 1973,
soos ingevoeg deur
artikel 7 van
Wet 10 van 1978
en gewysig deur
artikel 6 van
Wet 38 van 1981.

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

“(1) Waar—

40 (a) die Minister dit nodig ag vir die behoorlike uitoefening van 'n bevoegdheid of verrigting van 'n plig [ingevolge] by hierdie Wet aan hom verleen of opgedra, kan hy die Direkteur-generaal of 'n ander beamppte in die Departement van Nasionale Gesondheid [Welsyn] en [Pensioene] Bevolkingsontwikkeling skriftelik magtig om so 'n bevoegdheid uit te oefen of so 'n plig te verrig, behalwe die bevoegdheid om regulasies uit te vaardig;

45 (b) die Minister van Justisie dit nodig ag vir die be-

50 hoorlike uitoefening van 'n bevoegdheid of verrigting van 'n plig by hierdie Wet aan hom verleen of opgedra, kan hy die Direkteur-generaal: Justisie of 'n ander beamppte in die Departement van Justisie skriftelik magtig om so 'n bevoegdheid uit te oefen of so 'n plig te verrig.”; en

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

“(2) Die—

60 (a) Direkteur-generaal kan 'n beamppte in die Departement van Nasionale Gesondheid [Welsyn] en [Pensioene] Bevolkingsontwikkeling; of

(b) Direkteur-generaal: Justisie kan 'n beamppte in die Departement van Justisie,

skriftelik magtig om oor die algemeen of in 'n bepaalde geval of in gevalle van 'n bepaalde aard, 'n bevoegd-

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

Short title.

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

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heid of plig uit te oefen of te verrig wat by of [ingevolge] kragtens hierdie Wet aan [die Direkteur-generaal] hom verleen of opgedra is.”.

5. Hierdie Wet heet die Wysigingswet op Geestesgesondheid, Kort titel.
5 1987.

