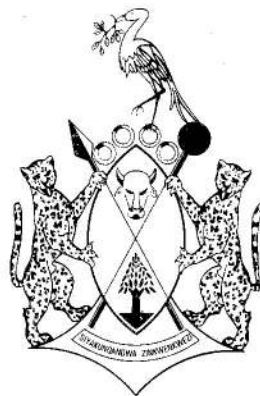


**IRIPHABLIKI
YECISKEI**

**REPUBLIC OF
CISKEI**

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**DEPARTMENT OF JUSTICE, POLICE AND
PRISONS**

GOVERNMENT NOTICE No. 68 OF 1988

**IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION:-**

CRIMINAL PROCEDURE AMENDMENT ACT, 1988

ACT No. 14 OF 1988

CRIMINAL PROCEDURE AMENDMENT ACT, 1988

ACT

To amend the Criminal Procedure Act, 1977.

(English text signed by the President. Assented to on 2 August 1988).

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:-

1. Amendment of section 15 of Act 51 of 1977. - Section 15 of the Criminal Procedure Act, 1977 (hereinafter in this Act referred to as the principal Act) is hereby amended by the substitution in subsection (2) for the words preceding the proviso of the following words:

"The court may order a person convicted upon a private prosecution to pay the costs and expenses of the prosecution, including the costs of any appeal against such conviction or any sentence:"

2. Amendment of section 57 of Act 51 of 1977. - Section 57 of the principal Act is hereby amended —

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

"(a) a summons is issued against an accused under section 54 (in this section referred to as the summons) and the public prosecutor or the clerk of the court concerned on reasonable grounds believes that a magistrate's court on convicting the accused of the offence in question will not impose a fine exceeding R300 and such public prosecutor or the clerk of the court endorses the summons to the effect that the accused may admit his guilt in respect of the offence in question and that he may pay a fine stipulated in the summons in respect of such offence without appearing in court; or";

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

"(a) (i) Subject to the provisions of subparagraphs (ii) and (iii), an accused who intends to pay an admission of guilt fine in terms of subsection (1) shall surrender the summons or the written notice, as the case may be, at the time of the payment of the fine.

(ii) If the summons or written notice, as the case may be, is lost or is not available and the copy thereof known as the control document -

(aa) is not available at the place of payment referred to in subsection (1), the accused shall surrender a copy of the summons or written notice, as the case may be, at the time of the payment of the fine; or

(bb) is available at the place of payment referred to in subsection (1), the admission of guilt fine may be accepted without the surrender of a copy of the summons or written notice, as the case may be.

(iii) If an accused in respect of whom a warrant has been endorsed in terms of section 55 (2A) intends to pay the relevant admission of guilt fine, the clerk of the court may, after he has satisfied himself that the warrant is so endorsed, accept the admission of guilt fine without the surrender of the summons, written notice or copy thereof, as the case may be.";

(c) by the substitution for paragraph (c) of subsection (3) of the following paragraph:

"(c) Notwithstanding the provisions of subsection (1), an accused referred to in paragraph (a) (iii) may pay the admission of guilt fine in question to the clerk of the court where he appears in consequence of such warrant and, if the said clerk of the court is not the clerk of the magistrate's court referred to in subsection (1), he shall transfer such admission of guilt fine to the latter clerk of the magistrate's court.";

(d) by the substitution for paragraph (b) of subsection (5) of the following paragraph:

"(b) An admission of guilt fine determined under paragraph (a) shall not exceed the maximum of the fine prescribed in respect of the offence in question or the amount of R300 whichever is the lesser."

3. Substitution of section 71 of Act 51 of 1977. - The following section is hereby substituted for section 71 of the principal Act:

"71. Juvenile may be placed in place of safety in lieu of release on bail or detention in custody. - If an accused under the age of eighteen years is in custody in respect of any offence and a police official or a court may in respect of such offence release the accused on bail under

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section 59 or 60, as the case may be, such police official or court may, instead of releasing the accused on bail or detaining him in custody, place the accused in a place of safety as defined in section 1 of the Children's Act, 1985 (Act 18 of 1985), pending his appearance or further appearance before a court in respect of the offence in question or until he is otherwise dealt with in accordance with law."

4. Amendment of section 72 of Act 51 of 1977, as amended by section 9 of Act 12 of 1983 and section 7 of Act 4 of 1987. - Section 72 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"If an accused is in custody in respect of any offence and a police official or a court may in respect of such offence release the accused on bail under section 59 or 60, as the case may be, such police official or such court may, in lieu of bail and if the offence is not, in the case of such police official, an offence referred to in Part II or Part III of Schedule 2 or in Schedule 2 to the National Security Act, 1982 (Act 13 of 1982) — "

5. Amendment of section 153 of Act 51 of 1977. - Section 153 of the principal Act is hereby amended by the insertion after subsection (3) of the following subsection:

"(3A) Any person whose presence is not necessary at criminal proceedings referred to in paragraphs (a) and (b) of subsection (3), shall not be admitted at such proceedings while the other person referred to in those paragraphs is giving evidence, unless such other person or, if he is a minor, his parent or guardian or a person *in loco parentis*, requests otherwise."

6. Amendment of section 154 of Act 51 of 1977, as amended by section 14 of Act 4 of 1987. - Section 154 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

"(a) Where a court under section 153(3) directs that any person or class of persons shall not be present at criminal proceedings or where any person is in terms of section 153 (3A) not admitted at criminal proceedings, no person shall publish in any manner whatever any information which might reveal the identity of any complainant in the proceedings: Provided that the presiding judge or judicial officer may authorize the publication of such information if he is of the opinion that such publication would be just and equitable."

7. Amendment of section 195 of Act 51 of 1977. - Section 195 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) Any offence under Chapter 9 of the Children's Act 1985 (Act 18 of 1985), committed in respect of the child of either of them;"

8. Amendment of section 254 of Act 51 of 1977. - Section 254 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) If it appears to the court at the trial upon any charge of any accused under the age of eighteen years that he is a child as referred to in section 14(4) of the Children's Act 1985 (Act 18 of 1985) and that it is desirable to deal with him in terms of sections 13, 14 and 15 of that Act, it may stop the trial and order that the accused be brought before a children's court mentioned in section 5 of that Act and that he be dealt with under the said sections 13, 14 and 15."

9. Amendment of section 290 of Act 51 of 1977. - Section 290 of the principal Act is hereby amended -

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

"(d) order that he be sent to a reform school as defined in section 1 of the Children's Act 1985 (Act 18 of 1985).";

(b) by the substitution for the words following on paragraph (b) of subsection (3) of the following words:

"may, instead of imposing punishment upon him for that offence order that he be placed under the supervision of a probation officer or that he be sent to a reform school as defined in section 1 of the Children's Act, 1985."; and

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

"(4) A court, which in terms of this section orders that any person be sent to a reform school, may direct that such person be kept in a place of safety as defined in section 1 of the Children's Act, 1985 until such time as the order can be put into effect."

10. Substitution of section 291 of Act 51 of 1977. - The following section is hereby substituted for section 291 of the principal Act:

"291. Duration of orders under section 290. - (1) Subject to the provisions of this section, any order made under section 290 shall lapse after the expiration of a period of two years after the date on which the order was made or after the expiration of such shorter period as the court may have determined at the time of making that order or, if the person concerned is discharged in accordance with the provisions of the Children's Act, 1985 (Act 18 of 1985), at the time of such discharge.

(2) Subject to the provisions of subsection (3), the Minister of Social Welfare and Pensions or any person acting under his authority may extend the validity of an order referred to in subsection (1) for a further period not exceeding two years at a time: Provided that an order may not be so extended to a date after the date on which the person attains the age of 18 years.

(3) The said Minister or any person acting under his authority, may, if he deems it necessary, order that any former pupil of or pupil in a reform school whose period of detention has expired or is about to expire, shall return to or remain in that reform school for a further period not exceeding two years and may from time to time by further order extend that period: Provided that no such order or extension shall extend the period of detention of any person beyond the end of the year in which that person attains the age of 21 years."

11. Amendment of section 296 of Act 51 of 1977, as amended by section 15 of Act 56 of 1979 and section 28 of Act 12 of 1983. - Section 296 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding the proviso of the following words:

"A court convicting any person of any offence may, in addition to or in lieu of any sentence in respect of such offence, order that the person be detained at a rehabilitation centre established under the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act 41 of 1971), if the court is satisfied from the evidence or from any other information placed before it, which shall in either of the said cases include the report of a probation officer, that such person is a person as is described in section 29 (1) of the said Act, and such order shall for the purposes of the said Act be deemed to have been made under section 30 thereof:"

12. Insertion of section 297B in Act 51 of 1977. - The following section is hereby inserted in the principal Act after section 297A:

"297B. Agreement in regard to enforcement of suspended sentences. - (1) The President may, on such conditions as he may deem fit, enter into an agreement with any foreign State in Africa, providing for the enforcement of suspended sentences on a reciprocal basis in respect of persons convicted of the commission within the jurisdiction of the Republic or such State of offences referred to in such agreement and may likewise agree to any amendment of such agreement.

(2) If an application is made to any court for the putting into operation of a sentence imposed and suspended by a court of another State such court shall, subject to the terms of the agreement under which the application was made, proceed *mutatis mutandis* as if that sentence was imposed and suspended by a court in the Republic.

(3) No such agreement or any amendment thereof shall be of any force or effect until it has been published by the President by proclamation in the *Gazette* or after the publication of a like proclamation that it is no longer in force."

13. Amendment of section 300 of Act 51 of 1977, as amended by section 16 of Act 56 of 1979 and section 25 of Act 4 of 1987. - Section 300 of the principal Act is hereby amended by the deletion of paragraph (b) of subsection (1).

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14. Amendment of section 302 of Act 51 of 1977, as amended by section 12 of Act 30 of 1984 and section 26 of Act 4 of 1987. - Section 302 of the principal Act is hereby amended -

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

“(i) which, in the case of imprisonment (including detention in a reform school as defined in section 1 of the Children’s Act 1985 (Act 18 of 1985)), exceeds a period of three months, if imposed by a judicial officer who has not held the substantive rank of magistrate or higher for a period of seven years, or which exceeds a period of six months, if imposed by a judicial officer who has held the substantive rank of magistrate or higher for a period of seven years or longer;” and

(b) by the deletion of paragraph (b) of subsection (3).

15. Insertion of section 335A in Act 51 of 1977. - The following section is hereby inserted in the principal Act after section 335:

“335A. Prohibition of publication of identity of persons towards or in connection with whom certain offences have been committed. - (1) No person shall, with regard to any offence referred to in section 153 (3) (a) and (b), as from the date on which the offence in question was committed or allegedly committed, until the prohibition in terms of section 154 (2) (b) of the publication of information relating to the charge in question commences, publish any information which might reveal the identity of the person towards or in connection with whom the offence was committed or allegedly committed, except with the authorization of a magistrate granted on application in chambers, with due regard to the wishes of the person towards or in connection with whom the offence was committed.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R1 500 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.”.

16. Amendment of Schedule 1 to Act 51 of 1977. - The following Schedule is hereby substituted for Schedule 1 to the principal Act:

“Schedule 1
(Sections 40, 42, 49)

Treason.

Sedition.

Public Violence.

Murder.

Culpable homicide.

Rape.

Indecent Assault.

Sodomy.

Bestiality.

Robbery.

Kidnapping.

Childstealing.

Assault, when a dangerous wound is inflicted.

Arson.

Malicious injury to property.

Breaking or entering any premises, whether under the common law or a statutory provision, with intent to commit an offence.

Theft, whether under the common law or a statutory provision.

Receiving stolen property knowing it to have been stolen.

Fraud.

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Forgery or uttering a forged document knowing it to have been forged.

Offences relating to the coinage.

Any offence, except the offence of escaping from lawful custody in circumstances other than the circumstances referred to immediately hereunder, the punishment wherefor may be a period of imprisonment exceeding six months without the option of a fine.

Escaping from lawful custody, where the person concerned is in such custody in respect of any offence referred to in this Schedule or is in such custody in respect of the offence of escaping from lawful custody.

Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule."

17. Repeal of law. - Section 6 of the Criminal Procedure Amendment Act, 1987 (Act 4 of 1987) is hereby repealed.

18. Short title. - This Act shall be called the Criminal Procedure Amendment Act, 1988.

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