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GENERAL NOTICE

ALGEMENE KENNISGEWING

DEPARTMENT OF HEALTH

DEPARTEMENT VAN GESONDHEID

The following Bills are published for general information. Any person desiring to offer any comment on the Bills or to submit representations thereanent should kindly submit such comment or representations to the Secretary for Health, Private Bag X88, Pretoria, 0001, on or before 15 January 1980.

Die onderstaande Wetsontwerpe word vir algemene inligting gepubliseer. Enigiemand wat kommentaar op die Wetsontwerpe wil lewer of vertoë daaromtrent wil rig, moet asseblief sodanige kommentaar of vertoë op of voor 15 Januarie 1980 aan die Sekretaris van Gesondheid, Privaatsak X88, Pretoria, 0001, stuur.

ALGEMENE VERDUIDELIKENDE NOTA

- []** Woorde in vet gedruk tussen vierkantige hake dui aan skrappings deur Minister by indiening voorgestel.
- _____ Woorde met 'n volstreep daaronder, dui aan invoegings deur Minister by indiening voorgestel.

WETSONTWERP

Tot wysiging van die Wet op Anatomiese Skenkings en Nadoodse Ondersoeke, 1970, betreffende woordskrywings; om voorsiening te maak vir beheer oor die invoer en uitvoer van weefsel; betreffende die bevoegdhede van die Minister van Gesondheid om regulasies uit te vaardig; en om voorsiening te maak vir bykomstige aangeleenthede.

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

Wysiging van artikel 1 van Wet 24 van 1970, soos gewysig deur artikel 1 van Wet 59 van 1973.

1. Artikel 1 van die Wet op Anatomiese Skenkings en Na-doodse Ondersoeke, 1970 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur die omskrywing van „geneesheer” deur die volgende omskrywing te vervang:
„geneesheer” **[iemand]** ’n geneesheer wat ingevolge die Wet op Geneeshere, Tandartse en **[Aptekers]** Aanvullende Gesondheidsberoep, **[1928]** 1974 (Wet No. **[13]** 56 van **[1928]** 1974), as sodanig geregistreer is of geag geregistreer te wees;”;
- (b) deur die volgende omskrywing na die omskrywing van „gonade” in te voeg:
„hierdie Wet’ ook ’n regulasie daarkragtens uitgevaardig;”;
- (c) deur die volgende omskrywings na die omskrywing van „hospitaal” in te voeg:
„invoer op enige wyse in die Republiek invoer, en het „invoer”, wanneer dit as ’n naamwoord gebruik word, ’n ooreenstemmende betekenis;
„invoerder’ ook iemand wat, hetsy as eienaar, afsender, geadresseerde, agent of makelaar, in besit is van, of op enige wyse geregtig is op die bewaring van of beheer oor, enige weefsel wat ingevoer is;”;
- (d) deur die volgende omskrywing na die omskrywing van „regulasie” in te voeg:
„Sekretaris’ die Sekretaris van Gesondheid;”;
- (e) deur die omskrywing van „tandarts” deur die volgende omskrywing te vervang:
„tandarts’ **[iemand]** ’n tandarts wat ingevolge die Wet op Geneeshere, Tandartse en **[Aptekers]** Aanvullende Gesondheidsberoep, **[1928]** 1974, as sodanig geregistreer is of geag geregistreer te wees;”;

GENERAL EXPLANATORY NOTE

- [** Words in bold type in square brackets indicate omissions proposed by the Minister on introduction.
- Words underlined with solid line indicate insertions proposed by Minister on introduction.

BILL

To amend the Anatomical Donations and Post-Mortem Examinations Act, 1970, relating to definitions; to provide for control over the importation and exportation of tissue; relating to the powers of the Minister of Health to make regulations; and to provide for incidental matters.

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

1. Section 1 of the Anatomical Donations and Post-Mortem Examinations Act, 1970 (hereinafter referred to as the principal Act) is hereby amended—

Amendment of
section 1 of
Act 24 of 1970.

- (a) by the substitution for the definition of “dentist” of the following definition:
“‘dentist’ means a **[person]** dentist registered or deemed to be registered as such under the Medical, Dental and **[Pharmacy]** Supplementary Health Service Professions Act, [1928] 1974 (Act No. [13] 56 of [1928] 1974);”;

- (b) by the insertion after the definition of “dentist” of the following definition:
“‘export’ means to export from the Republic by any means;”;

- (c) by the insertion after the definition of “hospital” of the following definitions:
“‘import’ means to import into the Republic by any means; and ‘importation’ has a corresponding meaning;
‘importer’ includes any person who, whether as owner, consignor, consignee, agent or broker, is in possession of or is in any way entitled to the custody or control of any tissue imported;”;

- (d) by the substitution for the definition of “medical practitioner” of the following definition:
“‘medical practitioner’ means a **[person]** medical practitioner registered or deemed to be registered as such under the Medical, Dental and **[Pharmacy]** Supplementary Health Service Professions Act, [1928] 1974;”;

- (e) by the insertion after the definition of “regulation” of the following definitions:
“‘Secretary’ means the Secretary for Health;
‘this Act’ includes any regulation made thereunder;”;

- (f) deur die volgende omskrywing na die omskrywing van „tandarts” in te voeg:
„uitvoer’ op enige wyse uit die Republiek uitvoer;”;
- (g) deur die omskrywing van „weefsel” deur die volgende omskrywing te vervang:
„weefsel”—
(a) enige menslike weefsel, met inbegrip van enige vlees, orgaan, been liggaamsvloeistof of weefsel of afleiding daarvan;
(b) enige toestel of voorwerp wat voor die dood van iemand deur ’n geneesheer in die liggaam van so iemand ingeplant is;”;

Wysiging van
artikel 3 van
Wet 24 van 1970.

2. Artikel 3 van die Hoofwet word hierby gewysig deur in subartikel (2) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

„By die toepassing van hierdie artikel word die dood van die betrokke persoon vasgestel deur minstens twee geneeshere waarvan een vir minstens vyf jaar na die datum waarop hy as geneesheer ingevolge **[artikel 15 van]** die Wet op Geneeshere, Tandartse en **[Aptekers]** Aanvullende Gesondheidsberoep, **[1928]** 1974 (Wet No. **[13]** 56 van **[1928]** 1974), geregistreer is of geag word geregistreer te wees, as geneesheer gepraktiseer het, en sodanige twee geneeshere mag nie lede wees van die span geneeshere wat weefsel wat van die liggaam van die betrokke persoon verwyder word, op ’n ander lewende persoon sal gebruik nie:”.

Wysiging van
artikel 5 van
Wet 24 van 1970.

3. Artikel 5 van die Hoofwet word hierby gewysig—

- (a) deur subparagraaf (i) van paragraaf (b) van subartikel (2) te skrap;
- (b) deur subparagraaf (iii) van paragraaf (b) van subartikel (2) deur die volgende subparagraaf te vervang:
„(iii) artikel **[34]** 46 van die **[Volksgesondheidswet, 1919]** Wet op Gesondheid, 1977 (Wet No. **[36]** 63 van **[1919]** 1977);”;
- (c) deur subparagraaf (v) van paragraaf (b) van subartikel (2) deur die volgende subparagraaf te vervang:
„(v) artikel **[32]** 34 van die **[Pneumokoniosevergoedingswet, 1962]** Wet op Bedryfsiektes in Myne en Bedrywe, 1973 (Wet No. **[64]** 78 van **[1962]** 1973);”.

Wysiging van
artikel 7 van
Wet 24 van 1970.

4. Artikel 7 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

„(3) Behoudens die bepalings van subartikel (5) mag geen verwydering van weefsel van die liggaam van ’n minderjarige of ’n persoon wat **[geestelik gekrenk of gebrekkig]** geestesongesteld binne die bedoeling van die **[„Wet op Geestesgebreken 1916”]** Wet op Geestesgesondheid, 1973 (Wet No. **[38]** 18 van **[1916]** 1973), is, vir gebruik op die liggaam van ’n ander lewende persoon, uitgevoer word nie:”.

Vervanging van
artikel 8 van
Wet 24 van 1970,
soos vervang deur
artikel 3 van
Wet 59 van 1973.

5. Artikel 8 van die Hoofwet word hierby deur die volgende artikel vervang:

„Regte met
betrekking
tot weef-
sel.

8. Iemand aan wie ’n liggaam of weefsel ingevolge artikel 2 of 6A geskenk word of wat weefsel verkry ingevolge artikel 3 of 7 of 10A, verkry, behoudens die bepalings van artikels 10 en 14 en die regulasies, by lewering van bedoelde weefsel aan hom by wyse van gebruik of andersins, na gelang van die geval, uitsluitende regte ten aansien van sodanige weefsel.”.

Wysiging van
artikel 10 van
Wet 24 van 1970.

6. Artikel 10 van die Hoofwet word hierby gewysig—

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

- (f) by the substitution for the definition of "tissue" of the following definition:

"tissue" means—

- (a) any human tissue, including any flesh, organ, bone, body fluid or tissue or derivative thereof;
- (b) any device or object implanted before the death of any person by a medical practitioner into the body of such person."

2. Section 3 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding the proviso of the following words: Amendment of section 3 of Act 24 of 1970.

"For the purposes of this section the death of the person concerned shall be established by at least two medical practitioners, one of whom shall have been practising as a medical practitioner for at least five years after the date on which he was registered or deemed to be registered as a medical practitioner in terms **[of section 15]** of the Medical, Dental and **[Pharmacy]** Supplementary Health Service Professions Act, **[1928]** 1974, (Act No. **[13]** **56** of **[1928]** 1974), and such two medical practitioners shall not be members of the team of medical practitioners who will use in any other living person any tissue removed from the body of the person concerned."

3. Section 5 of the principal Act is hereby amended— Amendment of section 3 of Act 24 of 1970.

- (a) by the deletion of subparagraph (i) of paragraph (b) of subsection (2);

- (b) by the substitution for subparagraph (iii) of paragraph (b) of subsection (2) of the following subparagraph:

"(iii) section **[34]** **46** of the **[Public]** Health Act, **[1919]** 1977 (Act No. **[36]** **63** of **[1919]** 1977);"

- (c) by the substitution for subparagraph (v) of paragraph (b) of subsection (2) of the following subparagraph:

"(v) section **[32]** **34** of the **[Pneumoconiosis Compensation]** Occupational Diseases in Mines and Works Act, **[1962]** 1973 (Act No. **[64]** **78** of **[1962]** 1973);"

4. Section 7 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection: Amendment of section 7 of Act 20 of 1970.

"(3) Save as provided in subsection (5), no removal of any tissue from the body of a minor or a person who is mentally **[disordered or defective]** ill within the meaning of the Mental **[Disorders]** Health Act, **[1916]** 1973 (Act No. **[38]** **18** of **[1916]** 1973), for use in the body of another living person, shall be effected."

5. The following section is hereby substituted for section 8 of the principal Act: Substitution of section 8 of Act 24 of 1970, as substituted by section 3 of Act 59 of 1973.

"Rights concerning tissue.

8. Any person to whom any body or any tissue is donated in terms of section 2 or 6A or who acquires any tissue in terms of section 3 or 7 or 10A shall, upon delivery of such tissue to him by way of use or otherwise, as the case may be, be vested with the exclusive rights over such tissue, subject to the provisions of sections 10 and 14 and the regulations."

6. Section 10 of the principal Act is hereby amended— Amendment of section 10 of Act 24 of 1970.

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

„(1) Niemand, behalwe 'n gemagtigde inrigting of, in die geval van weefsel wat ingevolge hierdie Wet ingevoer is, die betrokke invoerder, mag betaling ontvang nie ten aansien van die verskaffing aan 'n ander persoon vir enige van die doeleindes vermeld in artikel 2 (1) of 7, van weefsel (behalwe bloed of 'n bloedproduk) **[verwyder]** wat ingevoer is of van die liggaam van 'n oorlede of lewende persoon **verwyder** is, en enige sodanige betaling wat inderdaad ontvang is, is terugbetaalbaar aan die persoon wat dit gedoen het.”;

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

„(2) Iemand, behalwe 'n gemagtigde inrigting of, in die geval van weefsel wat ingevolge hierdie Wet ingevoer is, die betrokke invoerder, wat teen gelde, wins of vergoeding vir 'n ander persoon vir enige van die vermelde doeleindes weefsel (behalwe bloed of 'n bloedproduk) **invoer** of van die liggaam van 'n oorlede of lewende persoon verkry, is aan 'n misdryf skuldig en is by skuldigbevinding strafbaar op die wyse uiteengesit in artikel 15 (2).”.

Invoeging van
artikel 10A
in Wet 24 van
1970.

7. Die volgende artikel word hierby in die Hoofwet na artikel 10 ingevoeg:

„Beheer oor
die invoer
en uitvoer
van weefsel.

10A. (1) Niemand, behalwe 'n persoon aan wie die Sekretaris 'n permit ingevolge subartikel (2) uitgereik het, mag die weefsel of klas of kategorie weefsel wat deur die Minister by kennisgewing in die *Staatskoerant* bepaal word, invoer of uitvoer nie.

(2) Die Sekretaris kan onderworpe aan die voorwaardes en vereistes wat hy bepaal, op aansoek aan iemand 'n permit uitreik waarby hy gemagtig word om enige weefsel of klas of kategorie weefsel bedoel in subartikel (1) in of uit te voer.

(3) Die Sekretaris kan op die voorwaardes wat hy bepaal, 'n bevoegdheid wat by hierdie artikel aan hom verleen is aan 'n beampte in die Departement van Gesondheid of aan iemand anders oordra.

(4) Iemand wat hom veronreg voel deur 'n beslissing van die Sekretaris in verband met sy aansoek om die uitreiking van 'n permit ingevolge subartikel (2), kan by die Minister teen sodanige beslissing appél aanteken en daarop kan die Minister daardie beslissing bekrachtig, tersyde stel of wysig, of in verband daarmee die bevel uitreik wat hy goedvind.

(5) (a) Wanneer weefsel strydig met die bepalings van hierdie artikel ingevoer is, word daardie weefsel na die keuse van die betrokke invoerder—

(i) deur hom en op sy koste uit die Republiek verwyder binne die tydperk wat deur die Sekretaris bepaal word; of

(ii) aan die Staat verbeur en daarop kan die Sekretaris gelas dat dit vernietig word of op enige ander wyse wat hy goedvind, oor beskik word:

Met dien verstande dat indien daardie invoerder in gebreke bly om daardie weefsel ooreenkomstig die keuse wat hy ooreenkomstig subparagraaf (i) uitgeoefen het, te verwyder binne die tydperk wat deur die Sekretaris ingevolge daardie subparagraaf bepaal is, daardie weefsel aan die Staat verbeur word en vernietig of oor beskik word op die wyse wat deur die Sekretaris bepaal word.

“(1) No person, other than an authorized institution or, in the case of tissue imported in terms of this Act, the importer concerned, may receive any payment for providing to any other person for any of the purposes stated in section 2 (1) or 7 any tissue (other than blood or a blood product) imported or removed from the body of any deceased or living person, and any such payment which has in fact been received, shall be refundable to the person who made it.”;

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

“(2) Any person, other than an authorized institution or, in the case of tissue imported in terms of this Act, the importer concerned, who in consideration for any fee, profit or remuneration imports or procures for any other person for any of the said purposes any tissue other than blood or a blood product from the body of any deceased or living person, shall be guilty of an offence and shall upon conviction be punishable in the manner provided for in section 15 (2).”.

7. The following section is hereby inserted in the principal Act after section 10:

Insertion of
section 10A in
Act 24 of 1970.

“Control of
the importation
and exportation
of tissue.

10A. (1) No person other than a person to whom the Secretary issued a permit in terms of subsection (2) may import or export such tissue or class or category of tissue as the Minister may determine by notice in the *Gazette*.

(2) The Secretary may, subject to such conditions and requirements as he may determine, on application issue a permit to any person authorizing him to import or export any tissue or class or category of tissue referred to in subsection (1).

(3) The Secretary may delegate on such conditions as he may determine any power conferred upon him by this section to any officer in the Department of Health or to any other person.

(4) Any person who feels aggrieved by any decision of the Secretary in connection with his application for a permit in terms of subsection (2), may appeal to the Minister against such decision and thereupon the Minister may confirm, set aside or vary such decision or issue such order in connection therewith as he may deem fit.

(5) (a) When tissue has been imported contrary to the provisions of this section, such tissue shall at the option of the importer concerned—

(i) at his expense be removed by him from the Republic within such period as the Secretary may determine; or

(ii) be forfeited to the State and thereupon the Secretary may order that it be destroyed or otherwise dealt with in such manner as he may deem fit:

Provided that if such importer fails to remove such tissue in accordance with the option exercised by him in accordance with subparagraph (i) and within the period determined by the Secretary in terms of that subparagraph, such tissue shall be forfeited to the State and be destroyed or otherwise dealt with in such manner as the Secretary may determine.

- (b) Enige koste wat deur die Staat aangegaan is ten einde enige weefsel ingevolge hierdie subartikel te vernietig of andersins daarvoor te beskik, kan op die betrokke invoerder verhaal word."

Wysiging van
artikel 11 van
Wet 24 van 1970.

8. Artikel 11 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) 'n Gemagtigde inrigting kan weefsel wat ingevolge artikel 10A ingevoer is of wat wettiglik verwyder is van—

- (a) die liggaam van 'n oorlede persoon kragtens die bepalings van hierdie Wet; of
(b) die liggaam van 'n lewende persoon, ontvang, verkry, bewaar of gebruik."

Wysiging van
artikel 13 van
Wet 24 van 1970,
soos gewysig deur
artikel 4 van
Wet 59 van 1973.

9. Artikel 13 van die Hoofwet word hierby gewysig—

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

„(a) die **【vorm】** vorms waarin **【'n】** aansoek gedoen word **【of】** om 'n magtiging **【verleen word kragtens】** bedoel in artikel 5 of 'n permit bedoel in artikel 10A, en die vorms waarin sodanige magtiging verleen of permit uitgereik word;"

- (b) deur die volgende paragraaf na paragraaf (a) van subartikel (1) in te voeg:

„(aA) die vorms waarin besonderhede, aantekeninge en ander inligting wat ingevolge hierdie Wet gehou of verstrekt moet word, aangeteken moet word;"

- (c) deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:

„(c) die voorlegging van verslae aan 'n bepaalde gesag deur 'n invoerder van weefsel of 'n geneesheer wat weefsel van die liggaam van 'n lewende persoon ingevolge artikel 7 verwyder het of wat 'n nadoedse ondersoek ingevolge hierdie Wet uitgevoer het, en die tydperk waarbinne sulke verslae voorgelê moet word;"

- (d) deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:

„(d) die bewaring, gebruik of uitgifte van of die beskikking oor weefsel wat ingevoer of van die liggaam van 'n oorlede of lewende persoon verwyder is;"

- (e) deur die volgende subartikel na subartikel (1) in te voeg:

„(1A) Verskillende regulasies kan ingevolge subartikel (1) ten opsigte van verskillende persone, liggame of organisasies of verskillende kategorieë persone, liggame of organisasies uitgevaardig word;"

- (f) deur die volgende subartikels by te voeg:

„(6) 'n Regulasie wat ingevolge hierdie artikel uitgevaardig is, kan bepaal dat iemand wat daardie regulasie oortree of in gebreke bly om daaraan te voldoen, aan 'n misdryf skuldig is en by skuldigbevinding strafbaar is met 'n boete van hoogstens R200 of gevangenisstraf vir 'n tydperk van hoogstens ses maande.

(7) Die Minister kan op die voorwaardes wat hy goedvind iemand by kennisgewing in die Staatskoerant of by skriftelike kennisgewing deur die pos bestel of oorhandig, vrystel van enige van of al die regulasies wat ingevolge hierdie artikel uitgevaardig is, en kan enige sodanige vrystelling te eniger tyd op dergelike wyse intrek."

- (b) Any costs incurred by the State in order to destroy or otherwise deal with any tissue in terms of this subsection, may be recovered from the importer concerned."

8. Section 11 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 11 of Act 24 of 1970.

"(1) An authorized institution may receive, acquire, preserve or use any tissue which has been imported in terms of section 10A or lawfully removed from—

- (a) the body of a deceased person under the provisions of this Act; or
(b) the body of a living person."

9. Section 13 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following subsection: Amendment of section 13 of Act 24 of 1970, as amended by section 4 of Act 59 of 1973.

"(a) the **[form]** forms in which **[any]** application shall be made **[or]** for authority **[shall be given under]** referred to in section 5 or a permit referred to in section 10A, and the forms in which such authority will be given or permit be issued;"

- (b) by the insertion after paragraph (a) of subsection (1) of the following paragraph:

"(aA) the forms in which any particulars, entries and other information to be kept or furnished in terms of this Act shall be recorded;"

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

"(c) the submission of reports to any specified authority by an importer of tissues or a medical practitioner who in terms of section 7 has removed any tissue from the body of a living person or who has performed a post-mortem examination in terms of this Act, and the period within which such reports shall be submitted;"

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

"(d) the preservation, use, issue or disposal of any tissue imported or removed from the body of a deceased or living person."

- (e) by the insertion after subsection (1) of the following subsection:

"(1A) Different regulations may in terms of subsection (1) be made in respect of different persons, bodies or organizations or different categories of persons, bodies or organizations;"

- (f) by the addition of the following subsections:

"(6) Any regulation made in terms of this section may provide that any person who contravenes or fails to comply therewith shall be guilty of an offence and liable on conviction to a fine not exceeding R200 or imprisonment for a period not exceeding six months.

(7) The Minister may on such conditions as he may think fit by notice in the *Gazette* or by notice in writing, sent by post or delivered by hand, exempt any person from any of or all the regulations made in terms of this section, and may at any time withdraw any such exemption in like manner."

Wysiging van
artikel 15 van
Wet 24 van 1970,
soos gewysig deur
artikel 2 van
Wet 42 van 1972.

10. Artikel 15 van die Hoofwet word hierby gewysig deur die volgende paragraaf na paragraaf (b) van subartikel (1) in te voeg:
„(c) die bepalings van artikel 10A of 'n voorwaarde of vereiste wat daarkragtens bepaal is, oortree of versuim om daaraan te voldoen,”.

Kort titel.

11. Hierdie Wet heet die Wysigingswet op Anatomiese Skenkings en Nadoodse Ondersoeke, 1980.

10. Section 15 of the principal Act is hereby amended by the insertion after paragraph (b) of subsection (1) of the following paragraph:

“(c) contravenes or fails to comply with the provisions of section 10A or any condition or requisite determined thereunder.”.

Amendment of section 15 of Act 24 of 1970, as amended by section 2 of Act 42 of 1972.

11. This Act shall be called the Anatomical Donations and Post-Mortem Examinations Amendment Act, 1980. Short title.

ALGEMENE VERDUIDELIKENDE NOTA

- []** Woorde in vet gedruk tussen vierkantige hake dui aan skappings deur Minister by indiening voorgestel.
- _____ Woorde met 'n volstreep daaronder, dui aan invoegings deur Minister by indiening voorgestel.

WETSONTWERP

Tot wysiging van die Wet op Homeopate, Naturopate, Osteopate en Kruiekundiges, 1974, ten einde sekere uitdrukkings te omskryf; die benaming „lys” deur die benaming „register” te vervang; die uitvaardiging van reëls vir die beoefening van sekere praktyke verder te reël; voorsiening te maak vir tugondersoeke en sekere optrede in gevalle van sekere wangedrag of sekere onbekwaamheid van die kant van persone wat sekere praktyke beoefen; en sekere misdrywe meer in besonderhede te omskryf; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Wysiging van
artikel 1 van
Wet 52 van 1974.

1. Artikel 1 van die Wet op Homeopate, Naturopate, Osteopate en Kruiekundiges, 1974 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur voor die omskrywing van „lys” die volgende omskrywing in te voeg:
„aangewese beampte” die beampte in artikel 3 (1) vermeld;”;
- (b) deur die omskrywing van „lys” te skrap;
- (c) deur voor die omskrywing van „praktyk” die volgende omskrywing in te voeg:
„praktisyn” ’n persoon wie se naam in die register ingeskryf is en ook ’n persoon wie se naam onmiddellik voor die inwerkingtreding van artikel 3 van die Wysigingswet op Homeopate, Naturopate, Osteopate en Kruiekundiges, 1980, op die lys vermeld in genoemde artikel 3 ingeskryf was;”;
- (d) deur na die omskrywing van „praktyk” die volgende omskrywing in te voeg:
„register” die register in artikel 3 (1) vermeld.”.

Wysiging van
artikel 2 van
Wet 52 van 1974.

2. Artikel 2 van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde „op die lys” en „in die lys” deur die woorde „in die register” te vervang.

Wysiging van
artikel 3 van
Wet 52 van 1974,
soos gewysig deur
artikel 4 van
Wet 36 van 1977.

3. (1) Artikel 3 van die Hoofwet word hierby gewysig—

- (a) deur in subartikels (1), (3), (4) en (5) die woord „lys”, oral waar dit voorkom, deur die woord „register” te vervang;
- (b) deur in subartikel (2) die woorde „in die lys” oral waar hulle voorkom, deur die woorde „in die register” en die woorde „van die lys” deur die woorde „uit die register” te vervang;

GENERAL EXPLANATORY NOTE

- [** Words in bold type in square brackets indicate omissions proposed by the Minister on introduction.
-]** Words underlined with solid line indicate insertions proposed by Minister on introduction.

BILL

To amend the Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974, so as to define certain expressions; to substitute the appellation "register" for the appellation "list"; to further regulate the making of rules for the pursuit of certain practices; to provide for disciplinary inquiries and certain action in cases of certain misconduct or certain disability on the part of persons pursuing certain practices; and to define certain offences with greater particularity; and to provide for matters connected therewith.

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

1. Section 1 of the Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974 (hereinafter referred to as the principal Act), is hereby amended— Amendment of section 1 of Act 52 of 1974.

(a) by the insertion of the following definition after the definition of "Association":

"'designated officer' means the officer mentioned in section 3 (1);"

(b) by the deletion of the definition of "list"; and

(c) by the addition of the following definitions:

"'practitioner' means a person whose name has been entered in the register and includes any person whose name was immediately prior to the commencement of section 3 of the Homeopaths, Naturopaths, Osteopaths and Herbalists Amendment Act, 1980, entered on the list mentioned in the said section 3;

'register' means the register mentioned in section 3 (1)."

2. Section 2 of the principal Act is hereby amended by the substitution in subsection (1) for the words "on the list", wherever they occur, of the words "in the register". Amendment of section 2 of Act 52 of 1974.

3. (1) Section 3 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words "a list on which" of the words "a register in which" and for the words "on such list" of the words "on such register";

(b) by the substitution in subsection (2) for the words "on the list", whenever they occur, of the words "in the register", and for the words "from the list" of the words "from the register";

Amendment of section 3 of Act 52 of 1974, as amended by section 4 of Act 36 of 1977.

(c) deur in die Engelse teks—

- (i) in subartikel (1) die woorde „a list on which” deur die woorde „a register in which” en die woorde „on such list” deur die woorde „in such register” te vervang;
- (ii) in subartikel (2) die woorde „on the list”, oral waar hulle voorkom, deur die woorde „in the register” en die woorde „from the list” deur die woorde „from the register” te vervang;
- (iii) in subartikels (3) en (4) die woorde „on the list”, oral waar hulle voorkom, deur die woorde „in the register” te vervang;
- (iv) in subartikel (5) die woorde „The list” deur die woorde „The register” en die woorde „on the list” deur die woorde „in the register” te vervang.

(2) Die lys bedoel in artikel 3 van die Hoofwet voor die inwerkingtreding van subartikel (1) van hierdie artikel, word geag die register te wees bedoel in artikel 3 van die Hoofwet soos gewysig deur subartikel (1) van hierdie artikel.

Vervanging van
artikel 4 van
Wet 52 van 1974.

4. (1) Artikel 4 van die Hoofwet word hierby deur die volgende artikel vervang:

„Reëls

4. (1) Die Vereniging kan met die goedkeuring van die Minister van tyd tot tyd reëls **【maak】** uitvaardig wat nie met die bepalings van hierdie Wet onbestaanbaar is nie en waarby voorgeskryf word—

- (a) die voorwaardes waarop **【persone wie se name op die lys verskyn】** praktisyns die praktyke mag beoefen ten opsigte waarvan hul name in die **【lys】** register ingeskryf is;
 - (b) die tarief van gelde wat gehef **【moet】** kan word **【vir】** ten opsigte van dienste wat **【ingevoelge hierdie Wet gelewer is】** 'n praktisyn in die loop van die beoefening van sy praktyk as praktisyn lewer;
 - (c) behoudens die bepalings van die Wet op die Beheer van Medisyne en Verwante Stowwe, 1965 (Wet No. 101 van 1965), en na oorlegpleging met die Medisynebeheerraad ingestel by daardie Wet, die middels wat 'n **【persoon wie se naam op die lys verskyn, mag voorskryf】** praktisyn ten opsigte van elke praktyk ten opsigte waarvan sy naam in die register ingeskryf is vir 'n pasiënt van hom kan voorskryf, voorberei of verskaf of vir doeleindes van sy praktyk as praktisyn in sy besit of onder sy beheer kan hê;
 - (d) die handeling of versuime ten opsigte waarvan tugstappe kragtens artikel 4A teen 'n praktisyn gedoen kan word: Met dien verstande dat die bevoegdhede van die Vereniging en die aangewese beamppte om onderskeidelik ondersoek in te stel na en tugstappe te doen ten opsigte van 'n klagte, beskuldiging of bewering, nie beperk is tot die handeling of versuime aldus voorgeskryf nie;
 - (e) die betaling van jaarlikse gelde deur praktisyns aan die Vereniging, en vrystelling van sodanige betaling of vermindering van sodanige gelde.
- (2) Reëls kragtens subartikel (1) (c) kan—
- (a) van toepassing verklaar word op 'n vermeldde kategorie praktisyns;
 - (b) voorsiening maak, in die geval van 'n praktisyn wat by die inwerkingtreding van hierdie Wet vir die doeleindes van sy praktyk wettiglik gebruik gemaak het van enige middel nie in die reëls vermeld nie, vir vrystelling van die reëls vir sover dit so 'n middel betref.

- (c) by the substitution in subsections (3) and (4) for the words "on the list", wherever they occur, of the words "in the register"; and
- (d) by the substitution in subsection (5) for the words "The list" of the words "The register", and for the words "on the list" of the words "in the register".

(2) The list referred to in section 3 of the principal Act prior to the commencement of subsection (1) of this section, shall be deemed to be the register referred to in section 3 of the principal Act as amended by subsection (1) of this section.

4. (1) The following section is hereby substituted for section 4 of the principal Act: Substitution of section 4 of Act 52 of 1974.

"Rules.

4. (1) The Association may, with the approval of the Minister, from time to time make rules, not inconsistent with the provisions of this Act, prescribing—

- (a) the conditions subject to which **[persons whose names appear on the list]** practitioners may pursue the practices in respect of which their names have been entered **[on]** in the **[list]** register;
- (b) the tariff of fees **[to]** that may be charged **[for]** in respect of services **[rendered in terms of this Act]** that a practitioner renders in the course of pursuing his practice as practitioner;
- (c) subject to the provisions of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), and after consultation with the Medicines Control Council established by the said Act, the remedies which **[may be prescribed by a person whose name appears on the list]** a practitioner may in respect of each practice in respect of which his name has been entered in the register, prescribe, prepare for or supply to a patient of his, or may have in his possession or under his control for purposes of his practice as practitioner;
- (d) the acts or omissions in respect of which disciplinary steps may be taken against a practitioner under section 4A: Provided that the powers of the Association and the designated officer to inquire into and take disciplinary steps in respect of any complaint, charge or allegation, respectively, shall not be limited to the acts or omissions so prescribed;
- (e) the payment of annual fees by practitioners to the Association, and exemption from such payment or reduction of such fees.

(2) Rules under subsection (1) (c) may—

- (a) be declared to apply to a specified category of practitioners;
- (b) provide, in the case of a practitioner who at the commencement of this Act was lawfully making use, for the purposes of his practice, of any remedy not specified in the rules, for exemption from the rules in so far as any such remedy is concerned.

(3) Geen reël kragtens subartikel (1) uitgevaardig of enige wysiging of intrekking daarvan is van krag nie totdat dit deur die Minister van Gesondheid goedgekeur en in die *Staatskoerant* gepubliseer is."

(2) Paragraaf (e) van subartikel (1) van artikel 4 van die Hoofwet, soos bygevoeg deur subartikel (1) van hierdie artikel, word geag op 2 Desember 1974 in werking te getree het.

Invoeging van artikels 4A, 4B, 4C, 4D en 4E in Wet 52 van 1974.

5. Die volgende artikels word hierby in die Hoofwet na artikel 4 ingevoeg:

„Onderzoek na 4A. (1) Die Vereniging is bevoeg om 'n ondersoek

beskuldigings in te stel—

van wangedrag, (a) na 'n klagte, beskuldiging of bewering van en sekere prak- (a) onbetaamlike of skandelijke gedrag teen 'n praktisyn of gedrag wat, indien sy beroep in aanmerking geneem word, onbetaamlik of skandelijk is; of

(b) ten opsigte van 'n praktisyn wat volgens bewering verstandelik of liggaamlik in so 'n mate onbekwaam geword het dat dit vir die openbare belang nadelig sou wees om hom toe te laat om sy praktyk voort te sit.

(2) Aan iedereen wie se gedrag die onderwerp van 'n ondersoek kragtens subartikel (1) (a) uitmaak, moet die geleentheid gegun word om òf in eie persoon òf deur sy regsvertegenwoordiger op die beskuldiging te antwoord en sy verdediging aan te voer.

(3) (a) Die Vereniging kan, vir die doeleindes van 'n ondersoek wat kragtens subartikel (1) gehou word, getuienis afneem en kan, onder die handtekening van die voorsitter of die registrateur van die Vereniging, getuies dagvaar en die voorlegging van enige boek, aantekening, dokument of voorwerp eis, en kan, deur die voorsitter, 'n getuie 'n eed oplê of 'n bevestiging van hom aanneem en kan 'n boek, aantekening, dokument of voorwerp waarvan die voorlegging van 'n getuie vereis is, ondersoek.

(b) 'n Dagvaarding om as 'n getuie voor die Vereniging te verskyn of om aan hom 'n boek, aantekening, dokument of voorwerp voor te lê, moet so na as moontlik in die vorm by regulasie kragtens subartikel (6) voorgeskryf, wees, moet deur die voorsitter of die registrateur van die Vereniging onderteken wees en moet bestel word òf deur versending per pos in 'n aangetekende brief, òf op dieselfde wyse as dié waarop dit bestel sou gewees het indien dit 'n getuiedagvaarding was wat deur 'n landdroshof uitgereik is.

(c) Iedereen wat ingevolge hierdie subartikel gedagvaar word, is verplig om die dagvaarding te gehoorsaam en iemand wat, nadat hy behoorlik gedagvaar is—

(i) weier, of sonder genoegsame rede versuim, om op die in die dagvaarding vermelde tyd en plek aanwesig te wees en by die ondersoek tersaaklik getuienis te lewer;

(ii) weier om die eed of 'n bevestiging af te lê wanneer hy deur die voorsitter van die Vereniging versoek word om dit te doen;

(iii) weier om 'n boek, aantekening, dokument of voorwerp voor te lê wat hy ingevolge die dagvaarding verplig is om voor te lê; of

(iv) voor die Vereniging verskyn maar weier om 'n vraag wettiglik aan hom gestel, te beantwoord of volledig en bevredigend na sy beste wete en oortuiging te beantwoord,

(3) No rule made under subsection (1) or any amendment or withdrawal thereof shall be of force and effect until approved by the Minister of Health and published in the *Gazette*."

(2) Paragraph (e) of subsection (1) of section 4 of the principal Act, as added by subsection (1) of this section, shall be deemed to have come into operation on 2 December 1974.

5. The following sections are hereby inserted in the principal Act after section 4:

Insertion of sections 4A, 4B, 4C, 4D and 4E in Act 52 of 1974.

"Inquiry into charges of misconduct, and mental or physical condition of certain practitioners.

4A. (1) The Association shall have power to institute an inquiry—

- (a) into any complaint, charge or allegation of improper or disgraceful conduct against any practitioner or conduct which, when regard is had to his profession, is improper or disgraceful; or
- (b) in respect of any practitioner who has allegedly become mentally or physically disabled to such an extent that it would be contrary to the public interest to allow him to continue to practise.

(2) Every person whose conduct is the subject of an inquiry under subsection (1) (a) shall be afforded an opportunity, by himself or through his legal representative, of answering the charge and of being heard in his defence.

(3) (a) For the purposes of any inquiry held in terms of subsection (1), the Association may take evidence and may, under the hand of the chairman or the registrar of the Association, summon witnesses and require the production of any book, record, document or thing and may, through the chairman, administer an oath to any witness or accept an affirmation from him and may examine any book, record, document or thing which any witness had been required to produce.

(b) A summons to appear before the Association as a witness or to produce to it any book, record, document or thing shall be, as nearly as practicable, in the form prescribed by regulation under subsection (6), shall be signed by the chairman or the registrar of the Association and shall be served either by registered letter sent through the post or in the same manner as it would have been served if it were a subpoena issued by a magistrate's court.

(c) Every person summoned in terms of this subsection shall be bound to obey the summons and any person who, having duly been summoned—

- (i) refuses, or without sufficient cause fails, to attend and give evidence relevant to the inquiry at the time and place specified in the summons;
- (ii) refuses to take the oath or to make an affirmation when required by the chairman of the Association to do so;
- (iii) refuses to produce any book, record, document or thing which he has in terms of the summons been required to produce; or
- (iv) attends before the Association but refuses to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, any question lawfully put to him,

ALGEMENE VERDUIDELIKENDE NOTA

[] Woorde in vet gedruk tussen vierkantige hake dui aan skrappings deur Minister by indiening voorgestel.

Woorde met 'n volstreep daaronder, dui aan invoegings deur Minister by indiening voorgestel.

WETSONTWERP

Tot wysiging van die Wet op Vrugafdrying en Sterilisasie, 1975, ten einde 'n landdros onder sekere omstandighede te magtig om toestemming te verleen tot die sterilisasie van persone wat nie self toestemming daartoe kan verleen nie; ten einde voorsiening te maak vir delegasie deur die Minister van sy bevoegdheid om magtiging vir 'n sterilisasie te verleen; en ten einde die landdros van die betrokke distrik in die geval van beweerde onwettige vleeslike gemeenskap te magtig om die voorgeskrewe sertifikaat vir die doeleindes van 'n relevante vrugafdrying uit te reik, in plaas van 'n landdros verbonde aan die betrokke hof; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Wysiging van
artikel 4 van
Wet 2 van 1975.

1. Artikel 4 van die Wet op Vrugafdrying en Sterilisasie, 1975 (hieronder die Hoofwet genoem), word hierby gewysig—

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

„(b) die persoon wat regtens kan toestem tot 'n operasie wat vir so iemand voordelig is, skriftelik toestemming tot die sterilisasie verleen het **[en]** of, indien daar nie so 'n persoon is nie of so 'n persoon nie na redelike navraag gevind kan word nie, die landdros van die distrik waarin die betrokke persoon hom of haar bevind, skriftelike magtiging vir die sterilisasie verleen het na sodanige ondersoek as wat hy goed gevind het; en”;

(b) deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang;

„(c) die Minister, of 'n beampte van die Departement van Gesondheid wat skriftelik deur hom daartoe gemagtig is, skriftelike magtiging vir die sterilisasie verleen het.”

Wysiging van
artikel 6 van
Wet 2 van 1975.

2. Artikel 6 van die Hoofwet word hierby gewysig deur in subartikel (4) die woorde wat paragraaf (a) voorafgaan, deur die volgende woorde te vervang:

„(4) Waar die swangerskap na bewering die gevolg van onwettige vleeslike gemeenskap is, word die vrugafdrying nie bewerkstellig nie tensy daar aan die geneesheer wie se skriftelike magtiging ingevolge subartikel (1) vereis word, 'n sertifikaat voorgelê word, uitgereik deur 'n landdros **[verbonde aan die hof wat regsbevoegdheid ten opsigte van die betrokke beweerde misdryf het]** van die distrik waarin die betrokke misdryf na bewering gepleeg is, met die strekking dat—”.

Kort titel.

3. Hierdie Wet heet die Wysigingswet op Vrugafdrying en Sterilisasie, 1980.

GENERAL EXPLANATORY NOTE

- [** Words in bold type in square brackets indicate omissions proposed by the Minister on introduction.
- Words underlined with solid line indicate insertions proposed by Minister on introduction.

BILL

To amend the Abortion and Sterilization Act, 1975, to empower a magistrate in certain circumstances to grant consent to the sterilization of persons who cannot themselves consent thereto; to provide for a delegation by the Minister of his power to authorize a sterilization; and to empower a magistrate of the district in question in the case of alleged unlawful carnal intercourse, to issue the prescribed certificate for the purposes of a relevant abortion instead of a magistrate attached to the court in question; and to provide for matters connected therewith.

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

1. Section 4 of the Abortion and Sterilization Act, 1975 (hereinafter referred to as the principal Act), is hereby amended—

Amendment of
section 4 of
Act 2 of 1975.

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

“(b) the person who may in law consent to an operation beneficial to that person has granted written consent to the sterilization **[and]** or, if there is no such first-mentioned person or such person cannot after reasonable inquiry be found, the magistrate of the district in which the person concerned finds himself or herself has, after such investigation as he may deem fit, granted written authority for the sterilization; and”;

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

“(c) the Minister, or an officer of the Department of Health authorized thereto by him in writing, has granted written authority for the sterilization.”.

2. Section 6 of the principal Act is hereby amended by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

Amendment of
section 6 of
Act 2 of 1975.

“(4) Where the pregnancy is alleged to be the result of unlawful carnal intercourse, the abortion shall not be procured unless there is produced to the medical practitioner whose written authority is required in terms of subsection (1) a certificate, issued by a magistrate **[attached to the court having jurisdiction in respect of the alleged offence in question]** of the district in which the offence in question is alleged to have been committed, to the effect that—”.

3. This Act shall be called the Abortion and Sterilization Act, 1980.

Short title.

INHOUD

Departement van Gesondheid

ALGEMENE KENNISGEWINGS

BLADSY

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INTRODUCTION

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1. The first step in the development of a health program is the establishment of a health organization. This organization should be responsible for the planning, financing, and administration of the program.
2. The second step is the development of a health program. This program should be based on the needs of the community and should be designed to improve the health of the population.
3. The third step is the implementation of the health program. This step involves the execution of the program and the monitoring of its progress.
4. The fourth step is the evaluation of the health program. This step involves the assessment of the program's effectiveness and the identification of areas for improvement.

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