



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

FOR THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 788.

13 Maart 1992

No. 788.

13 March 1992

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

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

No. 19 van 1992: Wysigingswet op Geestesgesondheid, 1992.

No. 19 of 1992: Mental Health Amendment Act, 1992.

GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Mental Health Act, 1973, so as to delete certain obsolete definitions; to provide for entering into agreements with other States relating to the detention, reception and treatment of patients and persons from such other States in institutions in the Republic, and their discharge from such institutions; and to exclude the territory of South West Africa from the application of the Act; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 3 March 1992.)*

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, section 1 of Act 3 of 1984, section 2 of Act 34 of 1986, section 1 of Act 55 of 1987 and section 6 of Act 51 of 1991

1. Section 1 of the Mental Health Act, 1973 (hereinafter referred to as the principal Act), is hereby amended by the deletion of the definitions of "province" and "Republic".

Substitution of heading to Chapter 5 of Act 18 of 1973

10 2. The following heading is hereby substituted for the heading to Chapter 5 of the principal Act:

"PATIENTS AND PERSONS FROM OTHER STATES"

Substitution of section 42A of Act 18 of 1973, as inserted by section 4 of Act 38 of 1981

15 3. The following section is hereby substituted for section 42A of the principal Act:

"Minister may enter into agreements relating to detention, reception, treatment and discharge of patients and persons from other States"

20 42A. (1) The Minister may, on such conditions as he may deem fit, but subject to the provisions of this Act and any other law, and in consultation with the Minister of Finance, enter into an agreement with any other State providing for—

25 (a) the detention in an institution in the Republic of any person who is charged in such a State of an offence specified in such agreement, for the purposes of examination of and report on the mental condition of such person;

ALGEMENE VERDUIDELIKENDE NOTA:

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

WET

Tot wysiging van die Wet op Geestesgesondheid, 1973, ten einde sekere verouderde omskrywings te skrap; voorsiening te maak vir die aangaan van ooreenkomste met ander State met betrekking tot die aanhouding, opneming en behandeling van pasiënte en persone uit sodanige ander state in inrigtings in die Republiek, en hul ontslag uit sodanige inrigtings; en die gebied Suidwes-Afrika van die toepassing van die Wet uit te sluit; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 3 Maart 1992.)

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

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, artikel 1 van Wet 3 van 1984, artikel 2 van Wet 34 van 1986, artikel 1 van Wet 55 van 1987 en artikel 6 van Wet 51 van 1991 5

1. Artikel 1 van die Wet op Geestesgesondheid, 1973 (hieronder die Hoofwet genoem), word hierby gewysig deur die omskrywings van "provinsie" en "Republiek" te skrap.

Vervanging van opskrif by Hoofstuk 5 van Wet 18 van 1973 10

2. Die opskrif by Hoofstuk 5 van die Hoofwet word hierby deur die volgende opskrif vervang:

"PASIËNTE EN PERSONE UIT ANDER STATE"

Vervanging van artikel 42A van Wet 18 van 1973, soos ingevoeg deur artikel 4 van Wet 38 van 1981 15

3. Artikel 42A van die Hoofwet word hierby deur die volgende artikel vervang:

"Minister kan ooreenkomste aangaan met betrekking tot aanhouding, opneming, behandeling en ontslag van pasiënte en persone uit ander State

42A. (1) Die Minister kan, op die voorwaardes wat hy goed ag, 20
maar behoudens die bepalings van hierdie Wet en enige ander wet, en
in oorleg met die Minister van Finansies, met 'n ander Staat 'n
ooreenkoms aangaan wat voorsiening maak vir—

(a) die aanhouding in 'n inrigting in die Republiek van 'n persoon wat 25
in so 'n Staat aangekla is van 'n misdryf in die ooreenkoms bepaal,
vir die doeleindes van ondersoek van en verslag oor die
geestestoestand van so 'n persoon;

- (b) die voortgesette aanhouding in 'n inrigting in die Republiek en ontslag uit so 'n inrigting van 'n persoon wat na 'n ondersoek bedoel in paragraaf (a) bevind word geestesongesteld te wees;
- (c) die opneming en behandeling van 'n pasiënt van so 'n Staat in 'n inrigting in die Republiek en sy ontslag uit so 'n inrigting. 5
- (2) Geen sodanige ooreenkoms of wysiging daarvan is van krag nie—
- (a) tot tyd en wyl dit deur die Staatspresident by proklamasie in die *Staatskoerant* afgekondig is; of
- (b) tensy deur die wette van die ander Staat of deur die ooreenkoms voorsiening gemaak word vir die uitreiking van 'n bevelskrif deur 'n hof of ander bevoegde instansie of persoon in daardie Staat vir die aanhouding of opneming soos bedoel in subartikel (1). 10
- (3) Behoudens die bepalings van subartikel (1) is die tersaaklike bepalings van hierdie Wet en van die Strafproseswet, 1977 (Wet No. 51 van 1977), van toepassing op iemand wat kragtens hierdie artikel in 'n inrigting in die Republiek aangehou of behandel word, asof hy ingevolge hierdie Wet of die Strafproseswet, 1977, na so 'n inrigting verwys is." 15

Herroeping van artikel 78 van Wet 18 van 1973

4. Artikel 78 van die Hoofwet word hierby herroep. 20

Voorbehoud

5. Ondanks die wysiging van artikel 42A van die Hoofwet deur artikel 3 van hierdie Wet word met 'n persoon uit 'n staat wat voorheen deel van die Republiek uitgemaak het en wat op die datum van inwerkingtreding van hierdie Wet in 'n inrigting bedoel in die Hoofwet in die Republiek aangehou word, gehandel asof hierdie Wet nie aangeneem is nie. 25

Kort titel en inwerkingtreding

6. Hierdie Wet heet die Wysigingswet op Geestesgesondheid, 1992, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal. 30

- (b) the continued detention in an institution in the Republic and discharge from such an institution of a person who, after an examination referred to in paragraph (a), is found to be mentally ill;
- 5 (c) the reception and treatment of a patient from such a State in an institution in the Republic and his discharge from such an institution.
- (2) No such agreement or amendment thereof shall be of force or effect—
- 10 (a) until it has been published by the State President by proclamation in the *Gazette*; or
- (b) unless provision is made, by the laws of the other State or by the agreement, for the issue of a warrant by a court or other competent authority or person in that State for the detention or
- 15 reception as referred to in subsection (1).
- (3) Subject to the provisions of subsection (1), the relevant provisions of this Act and of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall apply to any person detained or treated in an institution in the Republic under this section, as if he had been
- 20 referred to such institution in terms of this Act or the Criminal Procedure Act, 1977.”.

Repeal of section 78 of Act 18 of 1973

4. Section 78 of the principal Act is hereby repealed.

Saving

- 25 5. Notwithstanding the amendment of section 42A of the principal Act by section 3 of this Act, any person from a state which previously formed part of the Republic who is detained in an institution referred to in the principal Act in the Republic on the date of commencement of this Act, shall be dealt with as if this Act had not been passed.

30 Short title and commencement

6. This Act shall be called the Mental Health Amendment Act, 1992, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

- (b) the continued detention in an institution in the Republic and discharge from such an institution of a person who, after an examination referred to in paragraph (a), is found to be mentally ill;
- (c) the reception and treatment of a patient from such a State in an institution in the Republic and his discharge from such an institution;
- (2) No such agreement or amendment thereof shall be of force or effect—
- (a) until it has been published by the State President by proclamation in the Gazette; or
- (b) unless provision is made, by the laws of the other State or by the agreement, for the issue of a warrant by a court or other competent authority or person in that State for the detention or reception as referred to in subsection (1).
- (3) Subject to the provisions of subsection (1), the relevant provisions of this Act and of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall apply to any person detained or treated in an institution in the Republic under this section, as if he had been referred to such institution in terms of this Act or the Criminal Procedure Act, 1977.

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