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3 April 2024

No. 50429

## THE PRESIDENCY

No. 4596

3 April 2024

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

Act No. 14 of 2023: Correctional Services Amendment, Act 2023

## DIE PRESIDENSIE

No. 4596

3 April 2024

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

Wet No. 14 van 2023: Wysigingswet op Korrektiewe Dienste, 2023

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**GENERAL EXPLANATORY NOTE:**

- [ ] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
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*(English text signed by the President)  
(Assented to 18 March 2024)*

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**ACT**

To amend the Correctional Services Act, 1998, so as to amend certain definitions; to make further provision for the custody of all inmates under conditions of human dignity; to insert, delete and amend certain provisions related to the Judicial Inspectorate for Correctional Services; to make further provision for compliance management; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 111 of 1998, as amended by section 1 of Act 32 of 2001, section 1 of Act 25 of 2008 and section 1 of Act 5 of 2011**

1. Section 1 of the Correctional Services Act, 1998 (Act No. 111 of 1998) (hereinafter referred to as the “principal Act”), is hereby amended—

- (a) by the insertion after the definition of “Head of the Correctional Centre” of the following definition: 5  
“Head of the Remand Detention Facility” means a correctional official designated by the National Commissioner to manage and control a particular remand detention facility;”;
- (b) by the insertion after the definition of “sentenced offender” of the following definition: 10  
“sexual violation” has the meaning assigned to it in section 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);”; and
- (c) by the insertion after the definition of “this Act” of the following definition: 15  
“torture” has the meaning assigned to it in section 3 of the Prevention of Combating and Torture of Persons Act, 2013 (Act No. 13 of 2013);”.

**Amendment of section 30 of Act 111 of 1998, as amended by section 16 of Act 32 of 2001 and section 24 of Act 25 of 2008**

2. Section 30 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection: 20

**ALGEMENE VERDUIDELIKENDE NOTA:**

- [               ] Woorde in vetdruk in vierkantige hake dui uitlatings uit bestaande verordeninge aan.
- \_\_\_\_\_ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordeninge aan.
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*(Engelse teks deur die President geteken)  
(Goedgekeur op 18 March 2024)*

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**WET**

Tot wysiging van die Wet op Korrektiewe Dienste, 1998, ten einde sekere woordomskrywings te wysig; verder voorsiening te maak vir die aanhouding van alle ingehouenes onder menswaardige omstandighede; sekere bepalings wat met die Regterlike Inspektoraat vir Korrektiewe Dienste verband hou, in te voeg, te skrap en te wysig; verder voorsiening te maak vir voldoeningsbestuur; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Wysiging van artikel 1 van Wet 111 van 1998, soos gewysig deur artikel 1 van Wet 32 van 2001, artikel 1 van Wet 25 van 2008 en artikel 1 van Wet 5 van 2011**

1. Artikel 1 van die Wet op Korrektiewe Dienste, 1998 (Wet No. 111 van 1998) (hierna die "Hoofwet" genoem), word hierby gewysig— 5  
 (a) deur die volgende omskrywing na die omskrywing van "Hoof van die Korrektiewe Sentrum" in te voeg:  
     “**Hoof van die Uitstel-aanhoudingsfasilitiet** 'n korrektiewe beampie wat deur die Nasionale Kommissaris aangewys is om 'n bepaalde uitstel-aanhoudingsfasilititeit te bestuur en te beheer;”; 10  
 (b) deur die volgende omskrywing na die omskrywing van "Korrektiewe Toesig en Paroolraad" in te voeg:  
     “**marteling**" dit wat in artikel 3 van die 'Prevention and Combating of Torture of Persons Act, 2013' (Wet No. 13 van 2013), aan 'torture' toegeskryf is;”; en 15  
 (c) deur die volgende omskrywing na die omskrywing van "Regterlike Inspektoraat" in te voeg:  
     “**seksuele skending**" het die betekenis daaraan toegeskryf in artikel 1 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007);”. 20

**Wysiging van artikel 30 van Wet 111 van 1998, soos gewysig deur artikel 16 van Wet 32 van 2001 en artikel 24 van Wet 25 van 2008**

2. Artikel 30 van die Hoofwet word hierby gewysig deur subartikel (7) deur die volgende subartikel te vervang: 25

**“(7) (a)** An inmate who is subjected to segregation must be informed of the right to appeal and may refer the matter to the Inspecting Judge who must decide thereon within 72 hours after receipt thereof.

**(b)** The Head of the Correctional Centre or the Head of the Remand Detention Facility must, upon request, provide all relevant information relating to the matter contemplated in paragraph **(a)** to the Inspecting Judge within 24 hours of receiving the request.”.

**Amendment of section 31 of Act 111 of 1998, as amended by section 25 of Act 25 of 2008**

**3.** Section 31 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

**“(5) (a)** An inmate who is subjected to such restraints must be informed of the right to appeal and may appeal against the decision to the Inspecting Judge who must decide thereon within 72 hours after receipt thereof.

**(b)** The Head of the Correctional Centre or the Head of the Remand Detention Facility must, upon request, provide all relevant information relating to the matter contemplated in paragraph **(a)** to the Inspecting Judge within 24 hours of receiving the request.”.

**Amendment of section 88A of Act 111 of 1998**

**4.** Section 88A of the principal Act is hereby amended—

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

**“(a)** is responsible for all administrative, financial and clerical functions of the Judicial Inspectorate; and”;

**(b)** by the deletion in subsection (1) of paragraph **(b)**;

**(c)** by the substitution for subsection (2) of the following subsection:

**“(2)** The person contemplated in subsection (1) must be appointed by the [National Commissioner] Minister.”;

**(d)** by the substitution for subsection (3) of the following subsection:

**“(3)** The appointment, career incidents and other conditions of service, including salary and allowances of the Chief Executive Officer are regulated by the Public Service Act.”; and

**(e)** by the substitution for subsection (4) of the following subsection:

**“(4)** Any matters relating to misconduct and incapacity of the Chief Executive Officer [must be referred to the National Commissioner by] vests in the Inspecting Judge who shall refer his or her decision to the Minister for implementation.”.

**Substitution of section 91 of Act 111 of 1998**

**5.** The following section is hereby substituted for section 91 of the principal Act:

**“Expenses of Judicial Inspectorate**

**91. (1)** The [Department is responsible for all] expenses [of the Judicial Inspectorate] incurred in connection with—

**(a)** the exercise of the powers, the carrying out of the duties and the performance of the functions of the Judicial Inspectorate; and

**(b)** the remuneration and other conditions of service of members of the Judicial Inspectorate,

shall be defrayed from monies appropriated by Parliament for this purpose to the departmental vote in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

**(2)** The Chief Executive Officer, in consultation with the Inspecting Judge, shall prepare and provide National Treasury with the necessary estimate of revenue and expenditure of the Judicial Inspectorate.

**(3)** The Chief Executive Officer, as the accounting officer of the Judicial Inspectorate, must, subject to the Public Finance Management Act, 1999, and subsection (2)—

**“(7) (a)** ’n Ingehoudene wat onderwerp word aan afsondering, moet ingelig word van die reg op appèl en mag die aangeleentheid verwys na die Inspekteerde Regter en hy of sy moet daaroor besluit binne 72 uur na ontvangs daarvan.

**(b)** Die Hoof van die Korrektiewe Sentrum of die Hoof van die Uitstel-aanhoudingsfasilitet moet, op versoek, alle tersaaklike inligting rakende die aangeleentheid in paragraaf (a) beoog aan die Inspekteerde Regter voorsien binne 24 uur nadat die versoek ontvang is.” 5

#### Wysiging van artikel 31 van Wet 111 van 1998, soos gewysig deur artikel 25 van Wet 25 van 2008

**3.** Artikel 31 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang: 10

**“(5) (a)** ’n Ingehoudene wat onderworpe is aan sodanige dwangmiddele moet ingelig word van die reg op appèl en mag teen die besluit na die Inspekteerde Regter appelleer wat daaroor moet [beslis] besluit binne 72 uur na ontvangs daarvan. 15

**(b)** Die Hoof van die Korrektiewe Sentrum of die Hoof van die Uitstel-aanhoudingsfasilitet moet, op versoek, alle tersaaklike inligting rakende die aangeleentheid in paragraaf (a) beoog aan die Inspekteerde Regter voorsien binne 24 uur nadat die versoek ontvang is.”

#### Wysiging van artikel 88A van Wet 111 van 1998

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**4.** Artikel 88A van die Hoofwet word hierby gewysig—

**(a)** deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) verantwoordelik is vir alle administratiewe, finansiële en klerklike funksies van die Regterlike Inspektoraat; en”;

**(b)** deur in subartikel (1) paragraaf (b) te skrap; 25

**(c)** deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Die persoon in subartikel (1) beoog word deur die [Nasionale Kommissaris] Minister aangestel.”;

**(d)** deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Die aanstelling, loopbaaninsidente en ander diensvoorraades, insluitende die salaris en toelaes van die Hoof- Uitvoerende Beampte, word deur die Staatsdienswet gereël.”; en 30

**(e)** deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Enige aangeleentheid wat verband hou met wangedrag of onbevoegdheid van die Hoof- Uitvoerende Beampte [moet deur] vestig in die Inspekteerde Regter [na die Nasionale Kommissaris verwys word] wat sy of haar besluit na die Minister sal verwys vir inwerkingstelling.”. 35

#### Vervanging van artikel 91 van Wet 111 van 1998

**5.** Artikel 91 van die Hoofwet word hierby deur die volgende artikel vervang: 40

#### “Uitgawes van Regterlike Inspektoraat

**91. (1)** Die [Departement is verantwoordelik vir al die] uitgawes [van die Regterlike Inspektoraat] aangegaan in verband met—

**(a)** die uitoefening van die bevoegdhede, die verrigting van die pligte en die uitvoer van die werkzaamhede van die Regterlike Inspektoraat; en 45

**(b)** die besoldiging en ander diensvoorraades van lede van die Regterlike Inspektoraat,

word verhaal uit gelde vir hierdie doel deur die Parlement bewillig aan die departementele begrotingspos ingevolge die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999). 50

(2) Die Hoof- Uitvoerende Beampte, in oorleg met die Inspekteerde Regter, moet die nodige raming van inkomste en uitgawes van die Regterlike Inspektoraat voorberei en aan die Nasionale Tesourie voorsien.

(3) Die Hoof- Uitvoerende Beampte, as die rekenpligtige beampte van die Regterlike Inspektoraat, moet, behoudens die Wet op Openbare Finansiële Bestuur, 1999, en subartikel (2)— 55

- (a) be charged with the responsibility of accounting for State monies received or paid out for or on account of the Judicial Inspectorate; and  
 (b) cause the necessary accounting and other records to be kept.”.

**Insertion of section 95D in Act 111 of 1998**

6. The following section is hereby inserted in the principal Act after section 95C: 5

**“Mandatory reporting obligations of Department to Inspecting Judge**

- 95D.** (1) The Head of the Correctional Centre or the Head of the Remand Detention Facility, or any official of the Department must immediately, after becoming aware, report all instances and notify the Inspecting Judge of—  
 (a) any deaths of inmates in correctional centres in terms of section 15(2);  
 (b) segregation and extended segregation of inmates in terms of section 30(6);  
 (c) the use of mechanical restraints in terms of section 31(3)(d);  
 (d) the use of force in correctional centres and remand detention facilities in terms of section 32(6);  
 (e) assault of an inmate by a correctional official;  
 (f) assault of a correctional official by an inmate;  
 (g) any act constituting torture or cruel, inhuman or degrading treatment or punishment;  
 (h) any sexual violations;  
 (i) any hunger strikes;  
 (j) any attempted suicides;  
 (k) any escape of an inmate; and  
 (l) matters related to dishonest practices or corrupt activities in correctional centres or remand detention facilities.  
 (2) The Head of the Correctional Centre or the Head of the Remand Detention Facility, or any official of the Department must within 24 hours after notifying the Inspecting Judge in terms of subsection (1), submit a written report to the Inspecting Judge in the prescribed form and manner on the matters contemplated in subsection (1)(a) to (l).  
 (3) The Inspecting Judge may investigate or instruct the National Commissioner or request any appropriate authority to investigate any matter contemplated in subsection (1).”.

**Amendment of Table of Content in Act 111 of 1998**

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7. The Table of Content after the Preamble to the principal Act is hereby amended by the insertion after “95C. Report of Commissioner” of the following:

“95D. Mandatory reporting obligations of Department to Inspecting Judge”.

**Short title and commencement**

8. This Act is called the Correctional Services Amendment Act, 2023, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 40

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- (a) die verantwoordelikheid gegee word om rekenskap te gee van Staatgelde ontvang of uitbetaal vir of ten behoeve van die Regterlike Inspektoraat; en  
 (b) die nodige rekenkundige en ander rekords laat hou.

**Invoeging van artikel 95D in Wet 111 van 1998**

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**6.** Die volgende artikel word hierby na artikel 95C in die Hoofwet ingevoeg:

**“Verpligte aanmeldingspligte van Departement aan Inspekteerde Regter**

- 95D.** (1) Die hoof van die Korrektiewe Sentrum of die Hoof van die Uitstel-aanhoudingsfasilitet, of enige beampete van die Departement, moet, onmiddellik na kennisname, alle gevalle aanmeld en die Inspekteerde Regter in kennis stel van—
- (a) enige sterftes onder ingehoudens in korrektiewe sentrums ingevolge artikel 15(2);
  - (b) afsondering en verlengde afsondering van ingehoudenes ingevolge artikel 30(6);
  - (c) die gebruik van meganiese dwangmiddele ingevolge artikel 31(3)(d);
  - (d) die gebruik van dwang in korrektiewe sentrums en uitstel-aanhoudingsfasilitete ingevolge artikel 32(6);
  - (e) aanranding van 'n ingehoudene deur 'n korrektiewe beampete;
  - (f) aanranding van 'n korrektiewe beampete deur 'n ingehoudene;
  - (g) enige handeling wat marteling of wrede, onmenslike of vernederende behandeling of straf daarstel;
  - (h) enige seksuele skendings;
  - (i) enige hongerstakings;
  - (j) enige pogings tot selfdood;
  - (k) enige ontsnapping deur 'n ingehoudene; en
  - (l) aangeleenthede wat met oneerlike praktyke of korrupte aktiwiteite in korrektiewe sentrums of uitstel-aanhoudingsentrums verband hou.
- (2) Die Hoof van die Korrektiewe Sentrum of die Hoof van die Uitstel-aanhoudingsentrum, of enige beampete in die Departement, moet binne 24 uur nadat die Inspekteerde Regter ingevolge subartikel (1) in kennis gestel is, 'n skriftelike verslag by die Inspekteerde Regter indien in die voorgeskrewe vorm en wyse oor die aangeleenthede in subartikel (1)(a) tot (l) bedoel.
- (3) Die Inspekteerde Regter kan ondersoek instel of kan die Nasionale Kommissaris opdrag gee of enige gepaste owerheid vra om ondersoek in te stel na enige aangeleenthed in subartikel (1) bedoel.”.

**Wysiging van Inhoudsopgawe in Wet 111 van 1998**

**7.** Die Inhoudsopgawe na die Aanhef tot die Hoofwet, word hierby gewysig deur die volgende na “95C. Verslag van Kommissaris” in te voeg:

“95D. Verpligte aanmeldingspligte van Departement aan Inspekteerde Regter”.

**Kort titel en inwerkingtreding**

**8.** Hierdie Wet heet die Wysigingswet op Korrektiewe Dienste, 2023, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* vasgestel.

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