



# Government Gazette

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## **THE PRESIDENCY**

No. 1221

11 November 2008

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

**No. 25 of 2008: Correctional Services Amendment Act, 2008.**



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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.

(English text signed by the President.)  
(Assented to 8 November 2008.)

**ACT**

To amend the Correctional Services Act, 1998, so as to insert, substitute, amend or delete certain definitions; to make further provision for the manner in which inmates are detained and the manner in which correctional centres are managed; to authorise the National Council to determine, under certain conditions, the period before an offender may be placed on parole; to make further provision for matters relating to Correctional Supervision and Parole Boards and the Judicial Inspectorate; to provide for compliance management and monitoring of relevant prescriptions, a Departmental Investigation Unit and a unit dealing with the institution of disciplinary procedures; to further regulate matters relating to officials of the Department of Correctional Services and the powers of the Minister to make regulations; 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**

1. Section 1 of the Correctional Services Act, 1998 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in the definition of “**amenities**” for the words preceding paragraph (a) of the following words:

“**‘amenities’** means recreational and other activities, diversions or privileges which are granted to **[prisoners]** inmates in addition to what they are entitled to as of right and in terms of this Act, and **[include]** includes—”;

(b) by the deletion of the definition of “**Area Manager**”;

(c) by the insertion after the definition of “**authorised official**” of the following definition:

“**‘care’** means the provision of services and programmes aimed at enhancing and maintaining the social, mental, spiritual, health and physical well being of inmates;”;

(d) by the deletion of the definition of “**Commissioner**”;

## Act No. 25, 2008 CORRECTIONAL SERVICES AMENDMENT ACT, 2008

- (e) by the insertion after the definition of “**Controller**” of the following definitions:
- “**‘correction’** means provision of services and programmes aimed at correcting the offending behavior of sentenced offenders in order to rehabilitate them; 5
- ‘correctional centre’** means any place established under this Act as a place for the reception, detention, confinement, training or treatment of persons liable to detention in custody or to placement under protective custody, and all land, outbuildings and premises adjacent to any such place and used in connection therewith and all land, branches, outstations, camps, buildings, premises or places to which any such persons have been sent for the purpose of incarceration, detention, protection, labour, treatment or otherwise, and all quarters of correctional officials used in connection with any such correctional centre, and for the purpose of sections 115 and 117 includes every place used as a police cell or lock-up; 10
- ‘correctional medical practitioner’** means a medical practitioner registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), and appointed in terms of section 3(4);” 15
- (f) by the insertion after the definition of “**Department**” of the following definition: 20
- “**‘development’** means the provision of services and programmes aimed at developing and enhancing competencies and skills that will enable the sentenced offender to re-integrate into the community;”
- (g) by the substitution for the definition of “**disability**” of the following definition: 25
- “**‘disability’** means a physical, mental, intellectual or sensory impairment which prevents a person having such an impairment from operating in an environment developed for persons without such an impairment;”
- (h) by the substitution for the definition of “**Head of Prison**” of the following definition: 30
- “**‘Head of [Prison] the Correctional Centre’** means a correctional official designated by the National Commissioner to manage and control a particular [prison] correctional centre;”
- (i) by the substitution for the definition of “**Independant Prison Visitor**” of the following definition: 35
- “**‘[Independant Prison] Independent Correctional Centre Visitor’** means a person appointed under section 92;”
- (j) by the insertion after the definition of “**Independant Prison Visitor**” of the following definition: 40
- “**‘inmate’** means any person, whether convicted or not, who is detained in custody in any correctional centre or who is being transferred in custody or is en route from one correctional centre to another correctional centre;”
- (k) by the deletion of the definition of “**joint venture prison**”; 45
- (l) by the insertion after the definition of “**management area**” of the following definition:
- “**‘mechanical restraints’** means a device which limits or prevents freedom of physical movement”.
- (m) by the deletion of the definition of “**medical officer**”; 50
- (n) by the insertion after the definition of “**mother and child unit**” of the following definition:
- “**‘National Commissioner’** means the National Commissioner of Correctional Services contemplated in section 3(3);”
- (o) by the insertion after the definition of “**National Council**” of the following definition: 55
- “**‘needs-based programmes’** means programmes that are developed or rendered according to the identified specific needs of offenders;”
- (p) by the deletion of the definition of “**prison**”; 60
- (q) by the deletion of the definition of “**prisoner**”; 60
- (r) by the deletion of the definition of “**Provincial Commissioner**”;

- (s) by the insertion after the definition of “**publication**” of the following definition:  
     “**‘public-private partnership correctional centre’** means a correctional centre or part of a correctional centre referred to in section 103;”;
- (t) by the substitution for the definition of “**sentenced prisoner**” of the following definition: 5  
     “**‘sentenced offender’** means a convicted person sentenced to incarceration or correctional supervision;”.
- (u) by the substitution for the definition of “**unsentenced prisoner**” of the following definition: 10  
     “**‘unsentenced [prisoner] offender’** means any person who is lawfully detained in [prison] a correctional centre and who has been convicted of an offence, but who has not been sentenced to [imprisonment] incarceration or correctional supervision;”.

#### Amendment of section 2 of Act 111 of 1998

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2. Section 2 of the principal Act is hereby amended by the substitution for paragraphs (b) and (c), respectively, of the following paragraphs:

- “(b) detaining all [prisoners] inmates in safe custody whilst ensuring their human dignity; and
- (c) promoting the social responsibility and human development of all [prisoners] sentenced offenders [and persons subject to community corrections].”.

#### Substitution of heading to chapter III of Act 111 of 1998

3. The following heading is hereby substituted for the heading in chapter III of the principal Act:

“**CUSTODY OF ALL [PRISONERS] INMATES UNDER CONDITIONS OF HUMAN DIGNITY**”.

#### Amendment of section 5 of Act 111 of 1998, as amended by section 4 of Act 32 of 2001

4. Section 5 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraphs (a), (b) and (c) of the following paragraphs, respectively: 30  
     “(a) the detention and treatment of [prisoners] inmates;  
     (b) particular purposes in relation to [prisoners] inmates; or  
     (c) particular categories of [prisoners] inmates.”; and
- (b) by the substitution in subsection (2) for paragraph (b) of the following paragraph: 35  
     “(b) If there is no [prison] correctional centre in a district [a prisoner] an inmate may be detained in a police cell but not for a period longer than one month unless a longer period is authorised by the National Commissioner.”.

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#### Amendment of section 6 of Act 111 of 1998, as amended by section 5 of Act 32 of 2001

5. Section 6 of the principal Act is hereby amended—

- (a) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 45  
     “On admission, [a prisoner] an inmate must be informed promptly of his or her right to—”;

- (b) by the substitution in subsection (4) for paragraphs (a) and (b), respectively, of the following paragraphs:

“(a) On admission **[a prisoner]** an inmate must be provided with written information in a language which he or she understands about the rules governing the treatment of the **[prisoners]** inmates in his or her category, the disciplinary requirements, the authorised channels of communication for complaints and requests and all such other matters as are necessary to enable him or her to understand his or her rights and obligations.

(b) If **[a prisoner]** an inmate is illiterate, a correctional official must explain this written information to the **[prisoner]** inmate, if necessary through an interpreter.”.

**Amendment of section 7 of Act 111 of 1998, as amended by section 6 of Act 32 of 2001**

6. Section 7 of the principal Act is hereby amended—

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

“(1) **[Prisoners]** Inmates must be held in cells which meet the requirements prescribed by regulation in respect of floor space, cubic capacity, lighting, ventilation, sanitary installations and general health conditions. These requirements must be adequate for detention under conditions of human dignity.”; and

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

“(2) (a) Sentenced **[prisoners]** offenders must be kept separate from **[unsentenced prisoners]** persons awaiting trial or sentence.

(b) Male **[prisoners]** inmates must be kept separate from female **[prisoners]** inmates.

(c) **[Prisoners]** Inmates who are children must be kept separate from adult **[prisoners]** inmates and in accommodation appropriate to their age.

(d) The National Commissioner may detain **[prisoners]** inmates of specific age, health or security risk categories separately.

(e) The National Commissioner may accommodate **[prisoners]** inmates in single or communal cells depending on the availability of accommodation.

(f) Where there is a danger of **[prisoners]** persons who are awaiting trial or sentence defeating the ends of justice by their association with each other, the National Commissioner must detain them apart.”.

**Amendment of section 8 of Act 111 of 1998**

7. Section 8 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) The medical officer may order a variation in the prescribed diet for **[a prisoner]** an inmate and the intervals at which the food is served, when such a variation is required for medical reasons.”.

**Amendment of section 12 of Act 111 of 1998, as amended by section 8 of Act 32 of 2001**

8. Section 12 of the principal Act is hereby amended by the substitution in subsection (4) for paragraph (c) of the following paragraph:

“(c) Except as provided in paragraph (d), no surgery may be performed on **[a prisoner]** an inmate without his or her informed consent, or, in the case of a minor, **[with]** without the written consent of his or her legal guardian.”.