

## OFFICE OF THE PRESIDENT

No. 2006 25 November 1994

## NO. 17 OF 1994: CORRECTIONAL SERVICES AMENDMENT ACT, 1994.

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

**General Explanatory Note:**

Words in ***bold italic*** indicate omissions from existing enactments.

Words in *italic* indicate insertions in existing enactments.

**ACT**

To amend the Correctional Services Act, 1959, so as to further regulate the detention of unconvicted young persons and women; and to provide for matters connected therewith.

(English text signed by the President.) (Assented to 16 November 1994.)

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows-

**Substitution of section 29 of Act 8 of 1959, as amended by section 104 of Act 33 of 1960, section 8 of Act 75 of 1965, section 9 of Act 104 of 1983 and section II of Act 92 of 1990**

1. The following section is hereby substituted for section 29 of the Correctional Services Act, 1959 (hereinafter referred to as the principal Act):

"Detention of unconvicted young persons and women

*29. (1) Notwithstanding anything to the contrary in any law contained-*

*(a) but subject to subsection (2), an unconvicted person under the age of 14 years;*

*(b) but subject to subsections (2) and (5), an unconvicted person who is 14 years or older but under the age of 18 years, shall not be detained in a prison or a police cell or lock-up.*

*(2) A person referred to in paragraph (a) or (b) of subsection (1) may be detained in a police cell or lock-up after his or her arrest until he or she is brought before a court within a period not exceeding 24 hours, if-*

*(a) such detention is necessary and in the interests of justice; and*

*(b) the person concerned cannot be placed in the care of his or her parent or guardian, any other suitable person or any institution or place of safety as defined in section 1 of the Child Care Act, 1983 (Act No. 74 of 1983), for the period in question.*

*(3) Where a person is detained in a police cell or lock-up as contemplated in subsection (2) the member of the South African Police Service or the peace officer responsible for ordering such detention shall-*

*(a) provide the court before which the person first appears with a written report setting out the reasons for the detention and an explanation as to why it was necessary to detain the person concerned in a police cell or lock-up and to keep him or her there until his or her first appearance before the court; or*

*(b) if the person is released before he or she appears in a court, provide the magistrate of the magisterial district in which the detention took place with a written report setting out the reasons for the detention and an explanation as to why it was necessary to detain the person concerned in a police cell or lock-up.*

*(4) The report referred to in subsection (3)(b) shall be submitted to the magistrate referred to in the said subsection not later than one court day of the person concerned being released from detention.*

*(5) A person referred to in subsection (1)(b) who is accused of having committed an offence referred to in Schedule 2, may on the order of a court be detained in a prison or a police cell or lock-up specified in such order for a period not exceeding 48 hours if-*

*(a) the court has ordered such person to be placed in any place of safety as defined in section 1 of the Child Care Act, 1983; and*

*(b) the court is satisfied on the basis of evidence adduced that admission to such place of safety cannot immediately take place.*

*(6) A person referred to in subsection (2) or (5) who is detained in a prison or a police cell or lock-up or who is being moved in custody to or from a court or who, while in custody, attends a court or a preparatory examination, shall be kept separate from any person over the age of 18 years who is in custody: Provided that he or she may be permitted to have contact with such a person in custody who has been or is to be charged jointly with him or her, if the member of the Department in charge of the prison or the member of the South African Police Service in charge of the police cell or lock-up in which he or she is detained, is of the opinion that such contact will not be detrimental to him or her.*

*(7) When a woman under the age of 18 years is detained or in custody as aforesaid, she shall be under the care of a woman."*

## **Amendment of section 95 of Act 8 of 1959, as amended by section 14 of Act 62 of 1966 and section 29 of Act 92 of 1990**

2. Section 95 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

"The laws mentioned in *the* Schedule 1 to this Act are hereby repealed to the extent set out in the fourth column of that Schedule: Provided that notwithstanding the repeal of the said laws-".

## **Insertion of Schedule 2 in Act 8 of 1959**

3. The following Schedule is hereby inserted in the principal Act after the existing Schedule to the principal Act, the existing Schedule becoming Schedule 1:

### **"SCHEDULE 2**

**(Section 29(5))**

**Murder Rape Robbery Assault, when a dangerous wound is inflicted**

Kidnapping Arson Breaking or entering any premises with intent to commit an offence  
Any offence under any law relating to the illicit conveyance or supply of dependence producing drugs  
Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule".

#### **Short title and commencement**

4. (1) This Act shall be called the *Correctional Services Amendment Act, 1994*, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

(2) Different dates may be fixed in terms of subsection (1) in respect of different areas in the Republic.

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