

# PRISONS

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## Prisons Act 17 of 1998.

**Summary:** This Act provides for the establishment of the Namibia Prisons Service and replaces the *Prisons Act 8 of 1959*. It came into force on 15 August 1998 (GN 206/1998, GG 1927).

**Amendments:** Act 5/1999 (which will come into operation on a date determined by the Minister of Prisons) corrects certain references in sections 28 and 83.

**Regulations:** Regulations made in terms of the previous Act survive in terms of section 127. GN 67/1987 amends the regulations promulgated under the previous Act.

A new set of regulations pertaining to prison service personnel and the treatment of prisoners is contained in GN 226/2001 (GG 2643).

Several new prisons are established by GN 201/1998 (GG 1927). The Katima Mulilo police cells are declared to be a prison by GN 160/1999 (GG 2163).

The names of prisoners covered by the Presidential pardon contained in Proclamation 1/2000 (GG 2306) issued in honour of the tenth anniversary of the independence of Namibia are listed in GN 183/2000 (GG 2379).

[The names of prisoners covered by the Presidential pardon issued in honour of the thirteenth anniversary of the independence of Namibia are listed in GN 145/2003 \(GG 3012\).](#)

**Cases:** The following cases relate to the previous *Prisons Act 8 of 1959*-

*Ex Parte Attorney-General, Namibia: In Re Corporal Punishment by Organs of State* 1991 NR 178 (SC) (sections 36, 37, 48(1), 54(2), 56(3) and Regulation 100 of the Prison Regulations)

*S v Haruseb* 1991 NR 155 (HC) (section 48(1)(a))

*S v Mbahapa* 1991 NR 274 (HC) (section 48(1)(a))

*S v Vihajo & Others* 1993 NR 233 (HC) (section 48(1)(a))

*S v Matsuis* 1993 NR 234 (HC) (section 48(1)(a))

*S v Matthias* 1993 NR 420 (HC) (section 48(1)(a))

*Namunjepo & Others v Commanding Officer, Windhoek Prison & Another* 1999 NR 271 (SC) (section 80 and Regulation 102)

*S v Linyando* 1999 NR 300 (HC) (section 48(2) read together with section 32(2))

*Amakali v Minister of Prisons and Correctional Services* 2000 NR 221 (HC) (section 48)

The following cases relate to the present Act –

*S v Babiep* 1999 NR 170 (HC) (meaning of “prison”, section 54, section 75(1))

*S v Njuluwa* 2000 NR 97 (HC) (held that it would derogate from the statutory powers conferred by sections 92, 95-98 if judicial officers were allowed to order that convicted persons may not be paroled).

**APPOINTMENTS**

Appointment of First Inspector-General of Police and First Commissioner of Prisons, Proc. 19/1990.

Appointment of Commissioner of Prisons, Proc. 34/1997 (GG 1765).

See also Security Commission Act 18 of 2001 (**CONSTITUTION**).