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THE PRESIDENCY

No. 1416 23 December 2020

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

Act No. 15 of 2020: Prescription in Civil and Criminal Matters (Sexual Offences) Amendment Act, 2020

DIE PRESIDENSIE

No. 1416 23 Desember 2020

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

Wet No. 15 van 2020: Wysigingswet op Verjaring in Siviele en Strafregtelike Aangeleenthede (Seksuele Misdrywe),

(English text signed by the President)
(Assented to 20 December 2020)

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.

ACT

To amend the Prescription Act, 1969, so as to extend the list of sexual offences in respect of which prescription does not commence to run under certain circumstances regarding a debt that is based on the alleged commission of any of those sexual offences; to amend the Criminal Procedure Act, 1977, so as to extend the list of sexual offences in respect of which a prosecution may be instituted after a period of 20 years has lapsed since the date of the alleged commission of the sexual offence; and to provide for matters connected therewith.

PARLIAMENT of the Republic of South Africa enacts, as follows:—

Amendment of section 12 of Act 68 of 1969, as amended by section 1 of Act 11 of 1984, section 68 of Act 32 of 2007 and section 48 of Act 7 of 2013

1. Section 12 of the Prescription Act, 1969, is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) Prescription shall not commence to run in respect of a debt that is based on the alleged commission of—

(a) **[an alleged sexual offence as contemplated in sections 3, 4, 17, 18(2), 20(1), 23, 24(2) and 26(1) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007,]** any sexual offence in terms of the common law or a statute; and

(b) **[an alleged offence]** offences as provided for in sections 4, 5, 6, **[and]** 7 and 8(1) and involvement in these offences as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013,

during the time in which the creditor is unable to institute proceedings because of his or her mental or **[psychological condition]** intellectual disability, disorder or incapacity, or because of any other factor that the court deems appropriate.".

Amendment of section 13 of Act 68 of 1969, as amended by section 11 of Act 139 of 1992

2. Section 13 of the Prescription Act, 1969, is hereby amended by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* the creditor is a minor or is **[insane]** a person with a mental or intellectual disability, disorder or incapacity, or is affected by any other factor that the

(Engelse teks deur die President geteken)
(Goedgekeur op 20 Desember 2020)

ALGEMENE VERDUIDELIKENDE NOTA:

[ ]	Woorde in vet druk in vierkantige hakies dui op weglatings uit bestaande verordeninge.
____	Woorde met 'n volstreep daaronder dui op invoegings in bestaande verordeninge

WET

Tot wysiging van die Verjaringswet, 1969, ten einde die lys van seksuele misdrywe ten opsigte waarvan verjaring onder sekere omstandighede nie begin loop vir 'n skuld wat gegrond is op die beweerde pleging van enige van daardie seksuele misdrywe nie, uit te brei; tot wysiging van die Strafproseswet, 1977, ten einde die lys seksuele misdrywe uit te brei ten opsigte waarvan 'n vervolging ingestel mag word na verloop van 'n tydperk van 20 jaar vanaf die datum van die beweerde pleging van die seksuele misdryf; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DIE PARLEMENT van die Republiek van Suid-Afrika verorden, soos volg:—

Wysiging van artikel 12 van Wet 68 van 1969, soos gewysig deur artikel 1 van Wet 11 van 1984, artikel 68 van Wet 32 van 2007 en artikel 48 van Wet 7 van 2013

1. Artikel 12 van die Verjaringswet, 1969, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

"(4) Verjaring begin nie loop nie ten opsigte van 'n skuld wat gegrond is op die beweerde pleeg van—

(a) **['n beweerde seksuele misdryf, soos beoog in artikels 3, 4, 17, 18(2), 20(1), 23, 24(2), 26(1) en 71(1) of (2) van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007,]** enige seksuele misdryf ingevolge die gemenereg of 'n wetsbepaling; en

(b) misdrywe soos in artikels 4, 5, 6, 7 en 8(1) voor voorsiening gemaak en betrokkenheid by daardie misdrywe soos in artikel 10 van die 'Prevention and Combating of Trafficking in Persons Act', 2013, voor voorsiening gemaak,

gedurende die tyd waarin die skuldeiser, vanweë sy of haar geestelike of **[psigologiese toestand]** intellektuele gestremdheid, versteuring of onbevoegdheid, of weens enige ander faktor wat die hof gepas ag, nie daartoe in staat is om verrigtinge in te stel nie.".

Wysiging van artikel 13 van Wet 68 van 1969, soos gewysig deur artikel 11 van Wet 139 van 1992

2. Artikel 13 van die Verjaringswet, 1969, word hierby gewysig deur in subartikel (1) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* die skuldeiser minderjarig of **[kranksinnig]** 'n persoon met 'n verstandelike of intellektuele gestremdheid, versteuring of onbevoegdheid is, of geraak word deur enige ander faktor wat die hof gepas ag ten opsigte van enige misdryf in artikel 12(4) bedoel, of 'n persoon onder kuratele is of deur

court deems appropriate with regard to any offence referred to in section 12(4), or is a person under curatorship or is prevented by superior force including any law or any order of court from interrupting the running of prescription as contemplated in section 15(1); or".

Substitution of section 18 of Act 51 of 1977, as substituted by section 68 of Act 32 of 2007 and amended by section 48 of Act 7 of 2013 and section 8 of Act 8 of 2017

3. The following section is hereby substituted for section 18 of the Criminal Procedure Act, 1977:

"**Prescription of right to institute prosecution**

18. (1) The right to institute a prosecution for any offence, other than **[the offences of]**—
(a) murder;
(b) treason committed when the Republic is in a state of war;
(c) robbery, if aggravating circumstances were present;
(d) kidnapping;
(e) child-stealing;
(eA) the—
(i) common law offence of bribery;
(ii) offence referred to in section 1 of the Corruption Act, 1994 (Act No. 92 of 1994); or
(iii) offences referred to in Parts 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);
(f) **[rape or compelled rape as contemplated in section 3 or 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively]** any sexual offence in terms of the common law or statute;
(g) genocide, crimes against humanity and war crimes, as contemplated in section 4 of the Implementation of the Rome Statute of the International Criminal Court Act, 2002;
(h) any contravention of section 4, 5 or 7 and involvement in these offences as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013);
[*(hA)* trafficking in persons for sexual purposes by a person as contemplated in section 71(1) or (2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007;
***(i)* using a child or person who is mentally disabled for pornographic purposes as contemplated in sections 20(1) and 26(1) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007;]** or
(j) torture as contemplated in section 4(1) and (2) of the Prevention and Combating of Torture of Persons Act, 2013 (Act No. 13 of 2013),

shall, unless some other period is expressly provided for by law, lapse after the expiration of a period of 20 years from the time when the offence was committed.

(2) The right to institute a prosecution that, in respect of any offence referred to in subsection (1)*(eA)* and *(f)*, has lapsed before the commencement of the Prescription in Civil and Criminal Matters (Sexual Offences) Amendment Act, 2020, is hereby revived.".

Short title

4. This Act is called the Prescription in Civil and Criminal Matters (Sexual Offences) Amendment Act, 2020.

oormag, met inbegrip van 'n wetsbepaling of 'n hofbevel verhinder word om die loop van verjaring te stuit soos in artikel 15(1) bedoel; of".

Vervanging van artikel 18 van Wet 51 van 1977, soos vervang deur artikel 68 van Wet 32 van 2007 en gewysig deur artikel 48 van Wet 7 van 2013 en artikel 8 van Wet 8 van 2017

3. Artikel 18 van die Strafproseswet, 1977, word hierby deur die volgende artikel vervang:

"**Verjaring van reg om vervolging in te stel**

18. (1) Die reg om 'n vervolging in te stel vir 'n misdryf, behalwe **[die misdrywe van]**—

(a) moord;

(b) hoogverraad gepleeg wanneer die Republiek in 'n staat van oorlog verkeer;

(c) roof, indien verswarende omstandighede teenwoordig was;

(d) menseroof;

(e) kinderdiefstal;

(eA) die—

(i) gemeneregmisdryf van omkopery;

(ii) misdryf in artikel 1 van die Wet op Korrupsie, 1994 (Wet No. 92 van 1994), bedoel; of

(iii) misdrywe in Dele 1 tot 4, of artikel 17, 20 of 21 bedoel (vir sover dit met die bogenoemde misdrywe verband hou) van Hoofstuk 2 van die Wet op Voorkoming en Bekamping van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004);

(f) **[verkragting of gedwonge verkragting soos onderskeidelik beoog in artikel 3 of 4 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007]** enige seksuele misdryf ingevolge die gemenereg of 'n wetsbepaling;

(g) volksmoord, misdade teen die mensdom en oorlogsmisdade, soos beoog in artikel 4 van die Wet op die Implementering van die Statuut van Rome oor die Internasionale Strafhof, 2002;

(h) enige oortreding van artikel 4, 5 of 7 en betrokkenheid by hierdie misdrywe soos voor voorsiening gemaak in artikel 10 van die 'Prevention and Combating of Trafficking in Persons Act', 2013 (Wet No. 7 van 2013);

[*(hA)* mensehandel vir seksuele doeleindes deur iemand soos in artikel 71(1) of (2) van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, beoog;

***(i)* die gebruik van 'n kind of 'n persoon wat verstandelik gestremd is vir pornografiese doeleindes soos beoog in artikels 20 (1) en 26 (1) van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007;]** of

(j) marteling soos beoog in artikel 4(1) en (2) van die 'Prevention and Combating of Torture of Persons Act', 2013 (Wet No. 13 van 2013),

verval by verstryking van 'n tydperk van 20 jaar vanaf die tyd toe die misdryf gepleeg is, tensy 'n ander tydperk regtens uitdruklik daarvoor bepaal word.

(2) Die reg om 'n vervolging in te stel wat, ten opsigte van enige misdryf bedoel in subartikel (1)*(eA)* en *(f)*, voor die inwerkingtreding van die Wysigingswet op Verjaring in Siviele en Strafregtelike Aangeleenthede (Seksuele Misdrywe), 2020, verstryk het, herleef hierby.".

Kort titel

4. Hierdie Wet heet die Wysigingswet op Verjaring in Siviele en Strafregtelike Aangeleenthede (Seksuele Misdrywe), 2020.