

SOCIAL WORK AMENDMENT BILL, 1998

as approved by Cabinet

12 August 1998

This version is for purposes of public hearings by the Portfolio Committee for Welfare and Population Development, scheduled for 31 August 1998

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.

BILL

To amend the Social Work Act, 1978, in relation to the definitions; to make provision for the establishment, constitution and objects of the South African Council for Social Service Professions and professional boards for social service professions; to abolish the South African Interim Council for Social Work; and to make provision for matters connected therewith.

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

Amendment of section 1 of Act 110 of 1978, as amended by section 1 of Act 68 of 1985, section 1 of Act 48 of 1989, section 1 of Act 22 of 1993 and section 1 of Act 52 of 1995

1. Section 1 of the Social Work Act, 1978 (hereinafter referred to as the principal Act), is hereby amended -

(a) by the substitution for the definition of "council" of the following definition:

"'council' means the South African **[Interim]** Council for Social **[Work]** Service Professions established by section 2;"

(b) by the deletion of the definitions of "electorate", and "former council" and "magistrate";

(c) by the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister for Welfare and Population Development in the national sphere of government;"

(d) by the insertion after the definition of "prescribed" of the following definition:

"'professional board' means a board established in terms of section 14A;"
and

(e) by the insertion after the definition of "social worker" of the following definition:

"South African Interim Council for Social Work' means the South African Interim Council for Social Work referred to in section 2 of this Act prior to its amendment by the Social Work Amendment Act, 1998,".

Substitution of heading to Chapter I of Act 110 of 1978, as substituted by section 2 of Act 22 of 1993 and section 2 of Act 52 of 1995

2. The following heading is hereby substituted for the heading to chapter I of the principal Act:

"[Interim] Council for Social [Work] Service Professions".

Substitution of section 2 of Act 110 of 1978, as substituted by section 2 of Act 48 of 1989 and section 3 of Act 52 of 1995

3. The following section is hereby substituted for section 2 of the principal Act:

"Establishment of Council for Social Service Professions

2.(1) There is hereby established a juristic person to be known as the South African Council for Social Service Professions and the first meeting of the Council shall be convened by the registrar.

(2) The head office of the council shall be situated in Pretoria."

Substitution of section 3 of Act 110 of 1978, as amended by section 2 of Act 68 of 1985, section 3 of Act 48 of 1989, section 3 of Act 22 of 1993 and section 4 of Act 52 of 1995

4. The following section is hereby substituted for section 3 of the principal Act:

"Objects of council

3. The objects of the council shall be -

(a) to protect the interests of the professions in respect of which professional boards have been established and to deal with any matter relating to such interests;

(b) to maintain and enhance the prestige, status, integrity and dignity of the professions in respect of which professional boards have been established;

(c) to advise the Minister in relation to any matter affecting the professions in respect of which professional boards have been established;

(d) to control and to exercise authority with regard to all financial matters pertaining to the council and the professional boards;

(e) to consult and liaise with relevant authorities on matters affecting the professional boards in general;

(f) to determine, on the recommendation of the professional boards, the qualifications for registration as social workers, social auxiliary workers and persons in respect of whom professional boards have been established;

(g) to regulate the practising of the professions in respect of which professional boards have been established and the registration of social workers, student social workers, social auxiliary workers and persons in respect of whom professional boards have been

established;

(h) to determine the standards of professional conduct of social workers, student social workers, social auxiliary workers and persons in respect of whom professional boards have been established and to ensure that they are maintained;

(i) to exercise effective control over the professional conduct of social workers, student social workers, social auxiliary workers and persons in respect of whom professional boards have been established;

(j) to encourage and promote efficiency in and responsibility with regard to the practice of the professions in respect of which professional boards have been established;

(k) to assist in the promotion of social services to the population of the Republic;

(l) to advise the Minister on the amendment or adaptation of this Act, in particular to place greater emphasis on professional practice, democracy, transparency, equity, accessibility and community need and involvement;

(m) subject to the provisions of section 14B of this Act, to control and to exercise authority in respect of all matters affecting -

(i) the training of persons in accordance with the developmental social welfare approach; and

(ii) the manner of the exercise of the practices pursued in the promotion of social services to the population of the Republic;

(n) to investigate additional sources of funding for the council;

(o) to promote liaison in the field of training both in the Republic and elsewhere, and to promote the standards of such training in the Republic; and

(p) to promote and to regulate interprofessional liaison between registered professions in the interest of the public."

Amendment of section 4 of Act 110 of 1978, as amended by section 3 of Act 68 of 1985, section 4 of Act 48 of 1989 and section 5 of Act 52 of 1995

5. Section 4 of the principal Act is hereby amended by the substitution for paragraphs (g) and (h) of the following paragraphs:

"(g) establish, support, administer or assist in the establishment or administration of pension funds or provident funds or pension schemes and medical aid schemes or medical benefit schemes for social workers and social auxiliary workers and persons in respect of whom professional boards have been established under this Act and former social workers and social auxiliary workers and for the staff of the council and for the dependants of social workers and social auxiliary workers and persons in respect of whom professional boards have been established under this Act and former social workers and social auxiliary workers and of the staff;;

(h) undertake or cause to be undertaken any research or study on any matter relating to the profession of social work and professions for which professional boards have been established under this Act:".

Substitution of section 5 of Act 110 of 1978, as substituted by section 6 of Act 52 of 1995 and amended by section 1 of Act 106 of 1996

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

"Constitution of council

5.(1) The council shall consist of not less than 18 but not more than 30 members, of whom -

(a) Three shall be registered social workers who shall be elected in the prescribed manner by registered social workers; and

(b) Three shall be representatives from each of the professional groups other than social work for which the Minister shall establish professional boards who shall be elected in the prescribed manner by persons representing the said professional groups.

(2) The following persons shall be appointed by the Minister as members of the council, of whom -

(a) two shall be persons nominated by the training institutions;

(b) one shall be a person in the employment of the Department of Welfare in the national sphere of government;

(c) two shall be persons nominated by national forums and networks in the welfare, social services and development field;

(d) one shall be a person nominated by trade unions which represent employees engaged in developmental social welfare services;

(e) one shall be a person nominated by business;

(f) one shall be a person nominated by the Minister of Education in the national sphere of government;

(g) three shall be persons representing the community: Provided that one shall be appointed by virtue of his or her specialised knowledge in a field other than social work and whose appointment to the council will enhance the effectiveness of the council by virtue of such specialised knowledge; and

(h) one shall be a person nominated by the Heads of the Welfare Departments in the provinces.

(3) The persons who are elected in terms of subsection (1) and appointed in terms of subsection (2) shall be South African citizens who are resident in the Republic and shall be elected by persons who are such citizens and are so resident.

(4) One member elected in terms of subsection (1) (a) and (b) shall be designated to represent a profession on the professional board concerned.

(5) (a) The members of the council shall hold office for a period of five years reckoned from the date on which the notice referred to in subsection (7) is published in respect of them.

(b) Members shall at the expiry of their terms of office be eligible for re-appointment and for re-election.

(6) As soon as possible after the election of the members referred to in subsection (1) has taken place, the Minister shall inform the registrar of the names of the persons who

have been appointed by him or her in terms of subsection (2).

(7) The registrar shall within thirty (30) days of the constitution of the council, make known by notice in the Gazette the names of the members of the council, the dates of their election and appointment by the Minister and the date of the commencement of their terms of office."

Substitution of section 6 of Act 110 of 1978, as substituted by section 7 of Act 52 of 1995

7. The following section is hereby substituted for section 6 of the principal Act:

"Vacation of office and filling of vacancies

(6).(1) A member of the council shall vacate his or her office if -

(a) his or her estate is sequestrated or he or she has entered into a composition with the creditors of his or her estate;

(b) he or she has been absent from more than two consecutive ordinary meetings of the council without the council's leave;

(c) he or she is or becomes disqualified under any law from practising his or her profession;

(d) he or she ceases to be a South African citizen or to be permanently resident in the Republic;

(e) he or she is convicted of an offence, whether in the Republic or elsewhere, in respect whereof he or she is sentenced to imprisonment without the option of a fine;

(f) he or she becomes a patient or a State patient as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);

(g) he or she -

(i) in the case of an elected member, ceases to hold a qualification required for his or her election, or submits his or her resignation in writing to the registrar;

(ii) in the case of a member appointed in terms of section 5 (2), ceases to hold a qualification required for his or her appointment, or submits his or her resignation in writing to the Minister;

(h) his or her tax status is not in order; and

(i) the Minister, in the public interest, terminates his or her membership.

(2) Every vacancy on the council arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member, shall be filled by appointment or election, as the case may be, by the person or the body by whom, and in the manner in which, the former member was required to be appointed or elected, and every member who is so appointed or elected shall hold his or her office for the unexpired portion of the period for which the member whose office became vacant was appointed or elected."

Amendment of section 9 of Act 110 of 1978, as amended by section 5 of Act 48 of 1989

8. Section 9 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) There shall be an executive committee of the council consisting of the president, the vice-president and [three] at least five other members of the council, designated by the council: Provided that at least four members represent the professional groups on the executive committee.".

Insertion of sections 14A, 14B and 14C in Act 110 of 1978

9. The following sections are hereby inserted after section 14 of the principal Act:

"Establishment of professional boards

14A. (1) The Minister shall, on the recommendation of the council, establish a professional board with regard to any profession in respect of which a register is kept in terms of this Act, or with regard to two or more such professions.

(2) The Minister may, on the recommendation of the council, change the professional boards with regard to the professions for which the boards have been established, and establish other boards.

(3) Before making a recommendation as contemplated in subsection (2), the council shall consult with any body which is or persons who are in the opinion of the council representative of the majority of persons to be affected by such change or establishment.

(4) The Minister may, on the recommendation of the council, make regulations relating to the constitution, functions and functioning of a professional board.

(5) Regulations relating to the constitution, functions and functioning of a professional board shall at least provide for -

(a) the majority of the members of a professional board to be elected by the members of the profession involved;

(b) persons representing the community to comprise not less than 20 per cent of the membership of a professional board, with a minimum of one such representative for every profession;

(c) relevant educational institutions to be represented;

(d) the welfare authorities to be represented;

(e) one or more persons versed in law to be appointed, where appropriate;

(f) the establishment by a professional board of such committees as it may deem necessary, each consisting of so many persons appointed by the board as the board may determine, but including at least one member of the board who shall be the chairperson of such committee, and the delegation to any person or any committee so established, such of its powers as it may from time to time determine, but shall not be divested of any powers delegated;

(g) the procedure to be followed for the appointment and election, as the case may be, of the members of a professional board;

(h) the election of a chairperson and vice-chairperson by the members of a professional board and the powers and functions of such a chairperson and vice-chairperson; and

(i) the term of office of the members of a professional board.

Objects of professional boards

14B. Subject to the provisions of section 3 of this Act, the objects of a professional board are -

(a) to consult and liaise with other professional boards and relevant authorities on matters affecting the professional board;

(b) to assist in the promotion of social services to the population of the Republic on a national basis;

(c) to control and to exercise authority in respect of all matters affecting -

(i) the training of persons in the professions falling within the ambit of the professional boards; and

(ii) the manner of the exercise of the practices pursued in connection with the professions falling within the ambit of the professional boards;

(d) to promote liaison in co-operation with the training institutions in the field of the training contemplated in paragraph (c), both in the Republic and elsewhere, and to promote the standards of such training in the Republic;

(e) to determine the minimum standards of education and training of persons practising the professions falling within the ambit of the professional boards;

(f) to communicate to the Minister information on matters of public importance acquired by any professional board in the course of the performance of its functions under this Act;

(g) to maintain and enhance the dignity of the professions falling within the ambit of the professional boards and the integrity of the persons practising such professions; and

(h) to guide the professions falling within the ambit of the professional boards and to protect the public.

General powers of professional boards

14C. (1) A professional board may -

(a) in such circumstances as may be prescribed, or where otherwise authorised by this Act, direct the registrar to remove any name from a register or, upon payment of the prescribed fee, restore thereto, or suspend a registered person from practising his or her profession pending the institution of a formal inquiry in terms of section 21;

(b) appoint examiners and moderators, conduct examinations and grant certificates, and charge such fees in respect of such examinations or certificates as may be prescribed;

(c) subject to prescribed conditions, approve training schools;

(d) consider any matter affecting any profession falling within the ambit of the professional board and make representations or take such action in

connection therewith as the professional board deems advisable;

(e) upon application by any person, recognise any qualification held by him or her (whether such qualification has been obtained in the Republic or elsewhere) as being equal, either wholly or in part, to any prescribed qualification, whereupon such person shall, to the extent to which the qualification has so been recognised, be deemed to hold such prescribed qualification;

(f) after consultation with another professional board or boards, establish a joint standing committee or committees of the boards concerned; and

(g) perform such other functions as may be prescribed, and generally, do all such things as the professional board deems necessary or expedient to achieve the objects of this Act in relation to a profession falling within the ambit of the professional board.

(2) Any decision of a professional board relating to a matter falling entirely within its ambit shall not be subject to ratification by the council, and the council shall, for this purpose, determine whether a matter falls entirely within the ambit of a professional board."

Substitution of heading to chapter II of Act 110 of 1978, as substituted by section 5 of Act 22 of 1993

10. The following heading is hereby substituted for the heading to chapter II of the principal Act:

"Registration of social workers, student social workers, [and] social auxiliary workers and persons in respect of whom professional boards have been established".

Substitution of section 15 of Act 110 of 1978, as amended by section 6 of Act 68 of 1985, section 6 of Act 48 of 1989 and section 6 of Act 22 of 1993

11. The following section is hereby substituted for section 15 of the principal Act:

"Unregistered persons not to practise the professions in respect of which professional boards have been established

15. (1) No person shall -

(a) for gain, directly or indirectly, in any manner whatsoever practise the professions in respect of which professional boards have been established, unless he or she has been registered under this Act as a social worker or as a person in respect of whom a professional board has been established or is deemed to have been so registered;

(b) give instruction on any aspect of any subject in respect of which professional boards have been established at a training institution, unless he or she has been registered under this Act as a social worker or as a person in respect of whom a professional board has been established, or is a person who is not permanently resident in the Republic and who, with the approval of the professional board concerned, gives instruction in an aspect of any subject in respect of which professional boards have been established determined by the professional board concerned at a training institution in the Republic determined by the professional board concerned;

(c) in any manner pretend to be a social worker, student social worker, social auxiliary worker or a person in respect of whom a professional

board has been established, while he or she has not been registered under this Act.

(2) In so far as any person undergoes practical training in a profession in respect of which professional boards have been established as a requirement for the acquisition of a prescribed qualification at a training institution, he or she shall be deemed not to practise the profession in respect of which professional boards have been established, provided he or she has been registered in terms of this Act as a student social worker or as a student of a profession in respect of which a professional board has been established and such practical training takes place under the supervision of a social worker or a person in respect of whom a professional board has been established, as the case may be.

(3) The provisions of subsection (1) shall not apply -

(a) to any person who has satisfied all the requirements for the prescribed qualifications and whose application for registration as a social worker, student social worker, social auxiliary worker or as a person in respect of whom a professional board has been established under this Act is under consideration by the council;

(b) to any person other than a social worker or a person in respect of whom a professional board has been established who is permitted or authorized in terms of the provisions of any other Act of Parliament to perform or apply any act which especially pertains to the professions in respect of which professional boards have been established, as the holder of an office or in the ordinary course of the practice of a profession referred to in such act;

(c) to any person belonging to a category of persons designated by the council for the purposes of this subsection by notice in the Gazette.

(4) For the purposes of subsection (1) a person shall be deemed to practise a profession in respect of which a professional board has been established for gain if he or she receives any reward for the performance of any act which especially pertains to a profession in respect of which a professional board has been established."

Amendment of section 17B of Act 110 of 1978, as inserted by section 9 of Act 48 of 1989 and amended by section 9 of Act 22 of 1993

12. Section 17B of the principal Act is hereby amended -

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

"(1) If it appears to the council that any provision of this Act is not being properly complied with by any training institution and that such improper compliance is having or may have an adverse effect on the standards of education and training in **[social work]** any profession in respect of which a professional board has been established under this Act maintained at that training institution, the Minister may, on the recommendation of the council, by notice in the *Gazette* declare that any specified degree, diploma or certificate awarded by such training institution after a date specified in the notice will not serve as a prescribed qualification."

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

"(2) The Minister may, if it appears to him or her upon

representations made by the council that satisfactory provision has been made for complying with the requirements of this Act by any training institution concerned in respect of any degree, diploma or certificate which is the subject of a notice issued under subsection (1), withdraw the said notice."

Amendment of section 17C of Act 110 of 1978, as inserted by section 9 of Act 48 of 1989 and section 10 of Act 22 of 1993

13. Section 17C of the principal Act is hereby amended -

(a) by the substitution for subsection (2) of the following subsection:

"(2) A social worker or a person in respect of whom a professional board has been established who desires to have a degree, diploma or certificate other than the prescribed qualification by virtue of which he or she has been registered, or a speciality, registered, shall apply to the registrar, submitting such documentary proof that he or she holds the additional qualification in question as the council may require, or, in the case of an application for registration of a speciality, submitting proof that he or she complies with the prescribed requirements, and if the registrar is satisfied that such additional qualification is a degree, diploma or certificate recognized in terms of subsection (1), or, in respect of a speciality, that such speciality has been prescribed and that the prescribed requirements have been complied with, he or she shall, upon payment of the prescribed fee, cause such degree, diploma or certificate, or speciality, as the case may be, to be entered in the register against the name of the applicant.";

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

"(2A)(a) If a social worker or a person in respect of whom a professional board has been established applies to have a speciality registered in terms of the section, but does not satisfy the prescribed requirements for the registration of a speciality, the council may require him or her to pass to the satisfaction of the council, on a date and at a place determined by the council, an examination prescribed under paragraph (b) before examiners appointed by the council, for the purpose of determining whether his or her professional knowledge and skill in the professional field of his or her speciality are adequate to enable him or her to practise the profession of social work or the profession in respect of which a professional board has been established in respect of the speciality concerned.

(b) The Minister may on the recommendation of the council make regulations which prescribe the examination which shall be conducted for the purposes of paragraph (a) and the fees which shall be paid by persons who sit for such examination.

(c) The registrar shall, upon payment of the prescribed fee, cause the speciality of a social worker or a person in respect of whom a professional board has been established who has satisfactorily passed an examination referred to in paragraph (a) to be entered against the name of that social worker or person in respect of whom a professional board has been

established.";

(c) by the substitution for subsection (3) of the following subsection:

(3) (a) The registrar shall, on the instruction of the council, remove from the register any degree, diploma or certificate registered as an additional qualification in terms of this section, if in respect of such qualification the name of the holder thereof has been removed from the roll, register or records of the university, college or institution, or society at or from which that social worker or person in respect of whom a professional board has been established, obtained or acquired such qualification.

(b) The registrar shall, on the instruction of the council, remove from the register any speciality registered in terms of this section, if the social worker concerned, or the person in respect of whom a professional board has been established ceases to comply with any prescribed requirement for the registration of the speciality in question, or, in the case of a social worker or a person in respect of whom a professional board has been established in respect of whom a speciality is registered, if such person has lodged with the registrar a written application for the removal of the speciality in question from the register.

(c) A degree, diploma or certificate removed in terms of paragraph (a), or a speciality removed in terms of paragraph (b), shall, on the instruction of the council, be restored by the registrar to the register if the social worker concerned or the person in respect of whom a professional board has been established -

(i) applies on the prescribed form for such restoration;

(ii) pays the fees (if any) prescribed in respect of such restoration; and

(iii) in the opinion of the council complies with such other requirements (if any) as the council may determine."; and

(d) by the substitution for subsections (4) and (5) of the following subsections:

"(4) No person shall take up, use or publish in any manner whatsoever any name, title, description or symbol indicating or calculated to lead persons to infer that he or she possesses an additional qualification contemplated in subsection (1), if such qualification has not been entered in the register against his or her name.

(5) No person registered under this Act shall practise as a specialist or shall hold himself or herself out as such a specialist, or shall in any other manner profess to be a person in respect of whom a speciality has been registered, unless the speciality in question has been registered in terms of this section in respect of such person."

Amendment of section 17D of Act 110 of 1978, as inserted by section 11 of Act 22 of 1993

14. Section 17D of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

"(1) No qualifications obtained by virtue of examinations conducted by a training institution situated outside the Republic shall be prescribed in terms of this Act, unless -

(a) such qualification will entitle the holder thereof to practise as a social worker or a person in respect of whom a professional board has been established in the country or state in which such training institution is situated;

(b) the council is satisfied that possession of such qualification indicates a standard of professional education and training not lower than that prescribed in respect of the education and training of social workers or persons in respect of whom professional boards have been established within the Republic.

(2) Subject to subsection (1), the council may require a person who holds a qualification referred to in subsection (1) and who applies for registration as a social worker under section 17 or as a person in respect of whom a professional board has been established under section 18A, to pass to the satisfaction of the council, on a date and at a place determined by the council, an examination prescribed under subsection (3) before examiners appointed by the council, for the purpose of determining whether such person possesses adequate professional knowledge and skill to be registered as a social worker or as a person in respect of whom a professional board has been established and whether he or she is proficient in any of the official languages of the Republic."

Insertion of sections 18A and 18B in Act 110 of 1978

15. The following sections are hereby inserted after section 18 of the principal Act:

"Registration of persons in respect of whom professional boards have been established

18A. (1) The council may, on application made in the prescribed manner, register any person in respect of whom a professional board has been established who holds any qualification referred to in subsection (2), complies with the prescribed conditions and satisfies the professional board concerned that he or she is a fit and proper person to be registered as such.

(2) The council may prescribe the qualifications obtained in the Republic which entitle the holder thereof to registration and the conditions subject to which such registration may take place.

(3) Different qualifications and conditions may be prescribed in respect of different categories of persons.

(4) A person may be registered with more than one professional board.

(5) A condition referred to in subsection (2) may pertain to the passing of an examination and the payment of fees prescribed for such examination.

(6) The provisions of subsections (2) and (5) of section 17 shall mutatis mutandis apply to a person referred to in subsection (1).

Registration of students of the other professions in respect of which professional boards have been established.

18B. (1) The council may, on application made in the prescribed manner, register as a student any person who studies a profession, other than social work, in respect of which a professional board has been established at a training institution and who satisfies the prescribed conditions

(2) The provisions of subsections (2) and (5) of section 17 shall mutatis mutandis apply to a person referred to in subsection (1)."

Amendment of section 19 of Act 110 of 1978, as substituted by section 8 of Act 68 of 1985 and section 11 of Act 48 of 1989.

16. Section 19 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The registrar shall keep separate registers in respect of social workers, student social workers, **[and]** social auxiliary workers and persons in respect of whom professional boards have been established registered in terms of this Act and shall, subject to the provisions of this Act, record in the appropriate register the prescribed particulars in the prescribed manner in respect of every such social worker, student social worker, **[and]** social auxiliary worker and person in respect of whom a professional board has been established.".

Amendment of section 21 of Act 110 of 1978, as amended by section 10 of Act 68 of 1985 and section 12 of Act 48 of 1989

17. Section 21 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The council may inquire into alleged unprofessional or improper conduct on the part of a social worker, student social worker, **[or]** social auxiliary worker or person in respect of whom a professional board has been established, and such inquiry shall not be restricted to the acts or omissions contemplated in section 27(1)**[c](b).**".

Amendment of section 22 of Act 110 of 1978, as amended by section 11 of Act 68 of 1985, section 13 of Act 48 of 1989 and section 13 of Act 22 of 1993

18. Section 22 of the principal Act is hereby amended -

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

"(d) a fine not exceeding **[R2 000] R5 000.**"; and

(b) by the substitution for subsection (4) of the following subsection:

"(4) Subject to the provisions of section 17(1), 17A(1), **[and]** 18(1), 18A(1), and 18B(1), the council may, after the expiration of such period as the council in each case may determine, again register as a social worker, student social worker, **[or]** social auxiliary worker or person in respect of whom a professional board has been established, as the case

may be, any person whose registration has been cancelled under this Act."

Amendment of section 25 of Act 110 of 1978, as amended by section 80 of Act 88 of 1996

19. Section 25 of the principal Act is hereby amended -

(a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

"(a) a **[magistrate with at least ten years' experience as magistrate]** person who is versed in law, who shall be the chairperson; and"; and

"(b) two **[social workers]** persons of senior standing in the profession concerned who have no direct interest in the affairs of the applicant and are not in the employ of the appellant and who are not members of the council."

Substitution of section 26 of Act 110 of 1978, as substituted by section 81 of Act 88 of 1996

20. The following section is hereby substituted for section 26 of the principal Act:

"Limitation of liability

26. Subject to the provisions of this Act, the council or a professional board or a committee or any member or officer thereof shall not be liable in respect of anything done in good faith in terms of this Act."

Substitution of section 27 of Act 110 of 1978, as amended by section 12 of Act 68 of 1985 and section 15 of Act 48 of 1989

21. The following section is hereby substituted for section 27 of the principal Act:

"Rules

27 (1) The council may, after consultation with the professional board concerned, with the approval of the Minister, make rules relating to -

(a) the course of conduct to be followed by social workers, student social workers, social auxiliary workers and persons in respect of whom professional boards have been established in practising their profession;

(b) the acts or omissions of a social worker, student social worker, social auxiliary worker or person in respect of whom a professional board has been established, which shall constitute unprofessional or improper conduct;

(c) the powers, duties and conditions of service of a registrar appointed by the council in terms of section 11(1);

(d) the institution, powers and functions of committees;

(e) the tariff of fees serving as a guide for the fees which may be charged in respect of professional services rendered by a social worker, student social worker, social auxiliary worker

or person in respect of whom a professional board has been established;

(f) any matter which the council deems necessary or expedient for the achievement or promotion of its objects or for the exercise of its powers or the performance of its functions.

(2) Different rules may in terms of subsection (1) be made in respect of social workers, student social workers, social auxiliary workers and persons in respect of whom professional boards have been established."

Amendment of section 28 of Act 110 of 1978, as amended by section 13 of Act 68 of 1985, section 16 of Act 48 of 1989 and section 14 of Act 22 of 1993

22. Section 28 of the principal Act is hereby amended -

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

"(a) the fees which shall be paid annually by social workers, student social workers, **[and]** social auxiliary workers and persons in respect of whom professional boards have been established to the council, and the fees which shall be paid to the council in respect of -

(i) the registration or re-registration of social workers, student social workers, **[or]** social auxiliary workers or persons in respect of whom professional boards have been established, and of additional qualifications, specialities and private practices;

(ii) the restoration of a qualification, speciality, practice and name of such a social worker, student social worker, **[and]** social auxiliary worker and person in respect of whom a professional board has been established to a register;

(iii) any application which shall or may be made under this Act;

(iv) the issue of registration certificates or copies thereof.

(v) the provision of extracts from any register;

(vi) any other act which shall or may be performed by the council or by the registrar under this Act;"

(b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

"(d) the institution of an inquiry in terms of Chapter III, including -

(i) the manner in which any complaint of alleged unprofessional

or improper conduct by a social worker, student social worker **[or]** social auxiliary worker or person in respect of whom a professional board has been established shall be lodged with the council;

(ii) the manner in which any such inquiry shall be instituted and conducted, the procedure to be followed thereat and any other matter connected with the institution or conducting thereof;"

(c) by the substitution for paragraphs (gA) and (gB) of subsection (1) of the following paragraphs:

"(gA) (i) the requirements to be complied with by an applicant for the registration of a speciality;

(ii) the conditions subject to which any social worker or person in respect of whom a professional board has been established may practise the profession of social work or any profession in respect of which a professional board has been established, as the case may be, in respect of a registered speciality;

(gB) acts which especially pertain to the profession of social work or to any profession in respect of which a professional board has been established;" and

(d) by the substitution for subsection (4) of the following subsection:

"(4) Different regulations may under this section be made in respect of social workers, student social workers, **[and]** social auxiliary workers and persons in respect of whom professional boards have been established, and regulations under -

(a) paragraph (a) of subsection (1) may exempt persons or categories of persons from payment of the fees contemplated in that paragraph;

(b) subsection (1) (c) shall be made after consultation with training institutions in the Republic;

(c) subsection (1) (gB) shall be made with the concurrence of the Competition Board established by section 3 of the Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of

1979).".

Substitution of section 28A of Act 110 of 1978, as substituted by section 10 of Act 52 of 1995

23. The following section is hereby substituted for section 28A of the principal Act:

"Abolition of South African Interim Council for Social Work, and transitional arrangements

28A. The South African Interim Council for Social Work shall cease to exist on the day immediately preceding the date of the first meeting of the council, and all rights, obligations, assets and liabilities acquired or incurred, as the case may be, by the South African Interim Council for Social Work shall immediately vest in the council and the council shall be deemed to have acquired or incurred such rights, obligations, assets and liabilities in terms of this Act."

Substitution of long title of Act 110 of 1978, as substituted by section 18 of Act 48 of 1989 and section 11 of Act 52 of 1995

24. The following long title is hereby substituted for the long title of the principal Act:

"ACT

To provide for the establishment of a South African **[Interim]** Council for Social **[Work] Service Professions** and to define its powers and functions; for the registration of social workers, student social workers, **[and]** social auxiliary workers and persons in respect of whom professional boards have been established; for control over the **[profession of social work] professions regulated under this Act**; and for incidental matters.".

Savings

25. (1) Any proclamation, notice, regulation, authorisation, rule or order issued, made, granted or done in terms of a provision of the principal Act or that is deemed to have been issued, made, granted or done in terms of the principal Act, shall stay in force until cancelled or repealed by the South African Council for Social Service Professions, established under section 2 of the principal Act (in this section referred to as the council).

(2) Any inquiry conducted by the South African Interim Council for Social Work, including any preliminary investigation undertaken to determine whether *prima facie* evidence exists which would justify such inquiry, into alleged improper or unprofessional conduct by any person, and which has not been concluded at the date of the first meeting of the council, shall be continued and concluded by the council.

(3) Until the establishment of professional boards, the council shall execute the objects and powers referred to in sections 14B and 14C.

(4) Any person employed by the South African Interim Council for Social Work, immediately prior to the date on which the said council is abolished in terms of section 28A of the principal Act, shall be deemed to have been appointed by the council.

(5) In this section "South African Interim Council for Social Work" shall mean the South African Interim Council for Social Work as defined in section 1 of the principal Act.

Short title and commencement

26. This Act shall be called the Social Work Amendment Act, 1998, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

MEMORANDUM ON THE OBJECTS OF THE SOCIAL WORK AMENDMENT BILL, 1998

During 1995 a transitional council, namely the South African Interim Council for Social Work (the "interim council"), was established in terms of the Social Work Amendment Act, 1995 (Act No 52 of 1995). One of the objects of the interim council was to make recommendations to the Minister on the constitution of a new social work council, within a period not exceeding three years. Those recommendations have now been made.

The main object of the Bill is, in pursuance of those recommendations, to make provision for the establishment and constitution of the contemplated new council which shall be known as the South African Council for Social Service Professions (the "Council"). Certain essential consequential amendments are effected. The interim council will continue to exist until the day which precedes the day on which the first meeting of the Council takes place, and will until that day continue to perform the functions entrusted to the interim council.

Clause 1 of the Bill deals with the insertion of new definitions and the deletion of obsolete definitions.

Clauses 2 and 3 deal with the establishment of the Council for Social Service Professions.

Clause 4 deals with the objects of the Council.

Clause 6 deals with the constitution of the Council where provision is made for the election and appointment of members. Provision is also made for persons who are not social service professionals to be members of the Council.

Clause 9 deals with the establishment of professional boards in respect of all professions under this Act to deal with and finalise matters pertaining to these professions, their objects and their powers. Provision is also made for the Minister to make regulations relating to the constitution, functions and functioning of a professional board.

Clause 15 deals with the registration of persons in respect of whom professional boards have been established and provide for the application, qualifications and conditions to be prescribed by regulation.

Clause 21 enables the Council to make rules for its internal organisation with the approval of the Minister.

Clause 23 abolishes the South African Interim Council for Social Work and also makes provision for the transfer of its assets and liabilities to the Council.

Due to the above-mentioned amendments to the Act, there are various consequential amendments that are being dealt with in the unmentioned clauses.

The Department of Welfare and the State Law Advisers are of the view that the procedure set out in section 76 of the Constitution should be followed with regard to this Bill.