

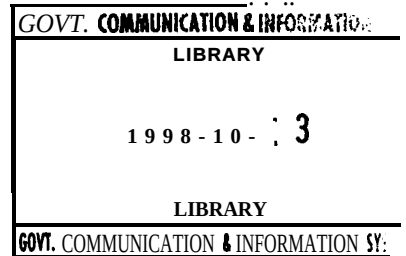
REPUBLIC OF SOUTH AFRICA

SOCIAL WORK AMENDMENT BILL

(As amended by the Select Committee on Social Services (National Council of Provinces))

(MINISTER FOR WELFARE AND POPULATION DEVELOPMENT)

[B 125D—98]



REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP MAATSKAPLIKE WERK

(Sins gewysig deur die Gekose Komitee oor Maatskaplike Dienste (Nasionale Raad van Provinsies))

(MINISTER VIR WELSYNEN BEVOLKINGSONTWIKKELING)

[W 125D—98]

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GENERAL EXPLANATORY NOTE:

- [1 Words in boldtype in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
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BILL

To amend the Social Work Act, 1978, so as to amend, delete and insert certain definitions; to provide 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 provide 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

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1. Section 1 of the Social Work Act, 1978 (in this Act 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:”; 10
- (b) by the deletion of the definitions of “electorate”, “former council” and “magistrate”; 10
- (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;”; and 15
- (d) by the insertion after the definition of “prescribed” of the following definition:
“ ‘professional board’ means a board established under section 14A(1);”. 15

Substitution of heading of 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 of 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 1995, 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—

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| (a) | to protect and promote the interests of the professions in respect of which professional boards have been or are to be established and to deal with any matter relating to such interests; | 15 |
| (b) | to maintain and enhance the prestige, status, integrity and dignity of the professions in respect of which professional boards have been established; | 20 |
| (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 relating to the council and the professional boards; | 25 |
| (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 of social workers, social auxiliary workers and persons practicing other professions in respect of which professional boards have been established; | 30 |
| (g) | to regulate the practicing 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 practicing other professions in respect of which professional boards have been established; | 35 |
| (h) | to determine the standards of professional conduct of social workers, student social workers, social auxiliary workers and persons practicing other professions in respect of which professional boards have been established and to ensure that they are maintained; | 40 |
| (i) | to exercise effective control over the professional conduct of social workers, student social workers, social auxiliary workers and persons practicing other professions in respect of which professional boards have been established; | |
| (j) | to encourage and promote efficiency and responsibility with regard to the practice of the professions in respect of which professional boards have been established; | 45 |
| (k) | to assist in the promotion of social services to the population of the Republic; | |

- (1) 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 section 14 B(c), to control and 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 in which the practices pursued in the promotion of social services to the population of the Republic are exercised;
- (n) to investigate additional sources of funding for the council;
- (o) to promote liaison in the field of training relating to social services both in the Republic and elsewhere, and to promote the standards of such training in the Republic;
- (p) to promote and to regulate interprofessional liaison between registered professions in respect of which professional boards have been established in the interest of the public; and
- (q) to co-ordinate the activities of the professional boards and to act as an advisory and communicatory body for such professional boards.”.

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—
- (a) by the deletion of paragraph (g) of subsection (1); and
- (b) by the substitution for paragraph (h) of subsection (1) of the following paragraph:
- “(h) undertake or cause to be undertaken any research or study on any matter relating to the profession of social work and other professions in respect of which professional boards have been established;”.

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 19 but not more than 34 members, namely—
- (a) six social workers elected in the prescribed manner by social workers;
- (b) three representatives from each of the professions other than social work in respect of which professional boards have been established, elected in the prescribed manner by persons representing those professions; and
- (c) 13 persons appointed by the Minister, of whom—
- (i) two shall be nominated by the training institutions;
- (ii) one shall be in the employment of the Department of Welfare in the national sphere of government;
- (iii) two shall be nominated by national forums and networks in the welfare, social services and development field;
- (iv) one shall be nominated by trade unions which represent employees engaged in developmental social welfare services;
- (v) one shall be nominated by business;
- (vi) one shall be nominated by the Minister of Education in the national sphere of government;

- (vii) four shall be persons nominated by the community: Provided that—
- (aa) 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 its effectiveness; and
 - (bb) one shall be a disabled person; and
- (viii) one shall be nominated by the heads of the departments responsible for welfare matters in the provincial sphere of government.
- (2) Any nominations in terms of subsection (1)(c)(i), (iii), (iv), (v), (vii) and (viii) shall be in the prescribed manner: Provided that, for the purposes of any nominations in terms of subsection (1)(c)(v) and (vii), the Minister shall through the media and by notice in the *Gazette* invite such nominations.
- (3)(a) A person who is elected or appointed in terms of subsection (1) shall—
- (i) be a South African citizen who is resident in the Republic; and
 - (ii) not be a person prohibited from continuing in office as contemplated in section 6(1).
- (b) A person to be elected in terms of subsection (1)(a) or (b) shall be elected by persons who are South African citizens who are resident in the Republic.
- (4) One—
- (a) member elected in terms of subsection (1)(a) shall be designated to represent the profession of social workers on its professional board;
 - (b) of the three members elected as representatives from each profession in terms of subsection (1)(b) shall be designated to represent the relevant 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-election and reappointment.
- (6) As soon as possible after the election of the members referred to in subsection (1), 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 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 their 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) the member’s estate is sequestrated or he or she has entered into a composition with the creditors of his or her estate;
 - (b) the member has been absent from more than two consecutive ordinary meetings of the council without the council’s leave;
 - (c) the member is disqualified under any law from practicing his or her profession;
 - (d) the member ceases to be a South African citizen or to be permanently resident in the Republic;
 - (e) the member 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) the member becomes a patient or a State patient as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);
- (g) the member—
- (i) in the case of a member elected in terms of section 5(1)(a) or (b), ceases to hold a qualification required for his or her election or submits his or her resignation in writing to the registrar; or
 - (ii) in the case of a member appointed in terms of section 5(1)(c), ceases to hold a qualification required for his or her appointment, or submits his or her resignation in writing to the Minister;
- (h) the Minister terminates his or her membership for reasons which are just and fair.
- (2) Every vacancy on the council shall be filled in the same manner in which the member who vacates office was elected or appointed, as the case may be, and every member so elected or appointed shall hold the office for the unexpired portion of the period for which the member whose office became vacant was elected or appointed.”.

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 professions contemplated in section 5(1)(a) and (b) on the executive committee.”.

Insertion of sections 14A, 1411 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 social service profession, 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 professional boards have been established, and establish other professional 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.”.

Objects of professional boards

- 14B.** 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 [he 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 board; and
 - (ii) the manner of the exercise of the practices pursued in connection with the professions falling within the ambit of the professional board;

- (d) to promote liaison, in co-operation with the training institutions, in the field of the training contemplated in paragraph (c)(i), 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 board;
- (f) to communicate to the Minister information on matters of public importance acquired by the professional board in the course of the performance of its functions in terms of this Act;
- (g) to maintain and enhance the dignity and integrity of the professions falling within the ambit of the professional board; and
- (h) to guide the professions falling within the ambit of the professional board and to protect the public.

General powers of professional boards

14C. (1) Subject to subsection (3), a professional board may—

- (a) in the prescribed circumstances, 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 practicing his or her profession pending the currying out of any inquiry in terms of section 2 I;
- (b) appoint examiners and moderators, conduct examinations and grant certificates, and charge the prescribed fees in respect of such examinations or certificates;
- (c) subject to prescribed conditions, approve training schools;
- (1) 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 considers advisable;
- (c) subject to subsection (2), 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 any other professional board or boards, establish a joint standing committee or committees of the board or boards concerned; and
- (g) perform such other prescribed functions, and generally, do all such things as the professional board considers necessary or expedient to achieve the objects of this Act in relation to a profession falling within the ambit of the professional board.

(2) No qualification shall, in terms of subsection (1)(c), be recognised as being equal, either wholly or in part, to any prescribed qualification unless that qualification indicates a standard of professional education and training not lower than that prescribed qualification.

(3) The council shall ratify any decision of a professional board relating to a matter not falling entirely within its ambit, and the council shall, for this purpose, determine whether a matter does not fall entirely within the ambit of a professional board.”.

Substitution of heading of 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 of Chapter II of the principal Act:

“Registration of social workers, student social workers, [and] social auxiliary workers and persons practicing other professions in respect of which professional boards have been established”.

Substitution of section 15 of Act 11(I 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 professions in respect of which professional boards have been established

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15. (1) No person shall—

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| <p>(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 practicing another profession in respect of which a professional board has been established or is deemed to have been so registered;</p> <p>(b) give instruction on any aspect of any subject in connection with a profession in respect of which a professional board has been established at a training institution, unless he or she—</p> <p style="padding-left: 20px;">(i) has been <i>registered</i> under this Act as a social worker or as a person practicing another profession in respect of which a professional board has been established; or</p> <p style="padding-left: 20px;">(ii) is a person who is not permanently resident in the Republic and who, with the approval of the professional board concerned, gives instruction in such aspect of such subject in connection with a profession in respect of which a professional board has been established at such training institution in the Republic, as that board may determine;</p> <p>(c) in any manner pretend to be a social worker, student social worker, social auxiliary worker or a person practising another profession in respect of which a professional board has been established, while he or she has not been registered under this Act.</p> <p>(2) In so far as any person undergoes practical training in a profession in respect of which a professional board has 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 a professional board has been established, provided he or she has been registered in terms of this Act as a student social worker or as a student of another 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 practicing another profession in respect of which a professional board has been established, as the case may be.</p> <p>(3) Subsection (1) shall not apply—</p> <p>(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 practising another profession in respect of which a professional board has been established under this Act is under consideration by the council;</p> <p>(b) to any person other than a social worker or a person practicing another profession in respect of which a professional board has been established under this Act who is permitted or authorized in terms 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;</p> <p>(c) to any person belonging to a category of persons designated by the council for the purposes of this subsection by notice in the <i>Gazette</i>.</p> | <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> |
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(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.”

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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 by the substitution for subsections (1) and (2) of the following subsections:

(1) If it appears to the council—

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(a) that any provision of this Act is not being properly complied with by any training institution; and
(b) that such improper compliance is having or may have an adverse effect on the standards maintained at that training institution in respect of education and training in [social work maintained at that training institution] any profession in respect of which a professional board has been established, 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.

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(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.”

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

13. Section 17C of the principal Act is hereby amended by the substitution for subsections (2), (2A), (3), (4) and (5) of the following subsections:

“(2)(a) A social worker or a person practising another profession in respect of which 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—

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(i) such documentary proof that he or she holds the additional qualification in question as the council may require; or
(ii) in the case of an application for registration of a speciality, [submitting] proof that he or she complies with the prescribed requirements [and if].

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(b) If the registrar is satisfied that such additional qualification is a degree, diploma or certificate [recognized] prescribed 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.

(2A)(a) If a social worker or person practising another profession in respect of which a professional board has been established applies to have a speciality registered in terms of this 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 another profession in respect of which a professional board has been established in respect of the speciality concerned.

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(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 shall be as prescribed.

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(c) The registrar shall, upon payment of the prescribed fee, cause the speciality of a social worker or person practicing another profession in respect of which 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 practising another profession in respect of which a professional board has been established. 5

(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 practicing another profession in respect of which a professional board has been established, obtained or acquired such qualification. 10

(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 practising another profession in respect of which 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 practicing another profession in respect of which 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. 15 20

(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 practising another profession in respect of which a professional board has been established— 25

(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. 30

(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. 35

(5) No person registered under this Act shall practise as a specialist or shall **hold himself out as** pretend to be 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.”. 40

Amendment of section 171) 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 qualification obtained by virtue of examinations conducted by a training institution situated outside the Republic shall be prescribed in terms of this Act, unless- 45

(a) such qualification will entitle the holder thereof to practise as a social worker or person practicing another profession in respect of which a professional board has been established in the country or state in which such training institution is situated; 50

(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 practicing other professions in respect of which professional boards have been established within the Republic. 55

(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 practicing another profession in respect of which a professional board has been established under section 18A, [o 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 practicing another profession in respect of which 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 8 of the principal Act:

“Registration of persons practicing other professions in respect of which professional boards have been established

18A. (1) The council may, on application made in the prescribed manner, register any person who wishes to practise a profession in respect of which a professional board has been established, other than social work, and 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 will 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)(a) The registrar shall issue to any person registered under subsection (1) a certificate of registration in a form approved by the council and subject to the prescribed conditions.

(b) The registrar may under the prescribed circumstances and on payment of the prescribed fees, issue to prescribed persons, duplicates of such registration certificates or extracts from any register which he or she is required to keep in terms of this Act.

(7) The registrar shall in writing advise every person whose application for registration under subsection (1) has been rejected, of the reasons for the rejection.”.

Registration of students of 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)(a) The registrar shall issue to any person registered under subsection (1) a certificate of registration in a form approved by the council and subject to the prescribed conditions,

(b) The registrar may under the prescribed circumstances and on payment of the prescribed fees, issue to prescribed persons, duplicates of such registration certificates or extracts from any register which he or she is required to keep in terms of this Act.

(3) The registrar shall in writing advise every person whose application for registration under subsection (1) has been rejected, of the reasons for the rejection.”,

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

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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 practicing other professions in respect of which 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.”.

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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

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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 practicing another profession in respect of which 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).”.

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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

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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:

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“(4) Subject to the provisions of **[section]** sections 17(I), 17A(I), **[and]** 18(1), 18A(I), and 18 B(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 practicing another profession in respect of which a professional board has been established, as the case may be, any person whose registration has been cancelled under this Act.”.

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

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“(2) Any appeal committee referred to in subsection (1) shall be appointed by the Minister and shall consist of—

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

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(b) two **[social workers]** persons of senior standing in the profession concerned who have no direct interest in the affairs of the appellant **[and]** or 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.” 5

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: 10

“Rules

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

- (u) the conduct of social workers, student social workers, social auxiliary workers or persons practicing other professions in respect of which professional boards have been established, in practicing their profession; 15
- (b) the acts or omissions of a social worker, student social worker, social auxiliary worker or person practicing another profession in respect of which a professional board has been established, which shall constitute unprofessional or improper conduct; 20
- (c) the powers, duties and conditions of service of the registrar;
- (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 practicing another profession in respect of which a professional board has been established; 25
- (f) any matter which the council considers necessary or expedient for the achievement or promotion of its objects or for the exercise of its powers or the performance of its functions. 30

(2) Different rules may in terms of subsection (1) be made in respect of social workers, student social workers, social auxiliary workers and persons practicing other professions in respect of which professional boards have been established.”: 35

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: 40

“(a) the fees which shall be paid annually by social workers, student social workers, **[and]** social auxiliary workers and persons practicing other professions in respect of which professional boards have been established to the council, and the fees which shall be paid to the council in respect of— 45

(i) the registration or re-registration of social workers, student social workers, **[or]** social auxiliary workers or persons practicing other professions in respect of which professional boards have been established, and of additional qualifications, specialities and private practices; 50

- (ii) the restoration of a qualification, speciality, practice and name of such a social worker, student social worker, **[and]** social auxiliary worker and person practicing another profession in respect of which a professional board has been established to a register; 5
- (iii) any application which shall or may be made under [his 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: 0
- “(d) the institution of an inquiry in terms of Chapter 111, 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 practicing another profession in respect of which a professional board has been established shall be lodged with the council; 5
- (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; 25
- (ii) the conditions subject to which any social worker or person practising another profession in respect of which a professional board has been established may practise the profession of social work or the other profession in respect of which a professional board has been established, as the case may be, in respect of a registered speciality; 30
- (gB) acts which especially pertain to the profession of social work or to any other profession in respect of which a professional board has been established;”;
- (d) by the insertion after paragraph (gC) of subsection (1) of the following paragraph: 35
- “(gD) the constitution, functions and functioning of a professional board, which shall at least provide for—
- (i) the majority of the members of [the professional board to be members of the profession or professions concerned; 40
- (ii) persons representing the community to comprise not less than 20 per cent of the membership of the professional board, with a minimum of one such representative for every profession concerned;
- (iii) relevant educational institutions to be represented; 45
- (iv) the welfare authorities to be represented;
- (v) one or more persons versed in law to be appointed, where appropriate;
- (vi) the establishment by the professional board of such committees as it considers necessary, each consisting of so many persons appointed by the professional board as it may determine, but including at least one member of the professional board who shall be the chairperson of such committee; 50
- (vii) the delegation by the professional board of its powers to any person or any committee of the professional board. as it may determine, but the professional board shall not be divested of any powers so delegated; 55

- (viii) the procedure to be followed for the appointment and election, as the case may be, of the members of the professional board;
 - (ix) the appointment by the Minister of a chairperson and vice-chairperson from nominations by the members of the professional board and the powers and functions of such a chairperson and vice-chairperson; and
 - (x) the term of office of the members of a professional board;
- and

- (e) 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 practising other professions in respect of which 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 inserted 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. (1)** The South African Interim Council for Social Work, established by section 2 of this Act before its amendment by the Social Work Amendment Act, 1998, shall cease to exist on the day immediately preceding the date of the first meeting of the council,
- (2) All rights, obligations, assets and liabilities acquired or incurred 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 section 30 of Act 110 of 1978

24. The following section is hereby substituted for section 30 of the principal Act:

“Short title

- 30.** This Act shall be called the Social **[Work]** Service Professions Act, 1978.”

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

25. 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 practicing other professions in respect of which professional boards have been established; for control over the [profession of social work] professions regulated under this Act; and for incidental matters.”.

Savings

26. (1) In this section “new council” means the South African Council for Social Service Professions, established by section 2 of the principal Act as amended by this Act.

(2) Any inquiry conducted by the South African Interim Council for Social Work, 5 established by section 2 of the principal Act before its amendment by [his Act, 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 new council, shall be continued and concluded by the new council. 10

(3) Any person employed by the South African Interim Council for Social Work, including the registrar appointed under section 11, immediately prior to the date on which the Interim Council is abolished in terms of section 28A of the principal Act, shall be deemed to have been appointed by the new council.

Short title and commencement

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

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

Background and main objects

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 [o 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.

Furthermore the Bill aims to provide for the establishment, constitution and objects of professional boards for social service professions.

Main features

Clause 1 of the Bill provides for the amendment, deletion and insertion of certain definitions.

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

Clause 4 sets out the objects of the Council.

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

Clause 9 provides for the establishment of professional boards in respect of all professions under this Act to deal with matters pertaining to these professions, their objects and their powers.

Clause 15 deals with the registration of persons in respect of whom professional boards have been established and provides 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 22 *inter alia* empowers the Minister to make regulations relating to the constitution, functions and functioning of a professional board.

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.

As a result of the above-mentioned amendments, there are various consequential amendments that are being dealt with in the unmentioned clauses.

Consultation

The South African Interim Council for Social Work was consulted

Parliamentary procedure

The Department of Welfare and the State Law Advisers are of the opinion that the Bill must be passed by Parliament in accordance with the provisions set out in section 76(1) (2) of the Constitution of the Republic of South Africa.