

**REPUBLIC OF SOUTH AFRICA**

**SOCIAL SERVICE PRACTITIONERS BILL, 2019**

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*(As introduced in the National Assembly (proposed section 76); explanatory summary of the Bill published in Government Gazette No. 43145 of 27 March 2020) (The English text is the official text of the Bill)*

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**(MINISTER OF SOCIAL DEVELOPMENT)**

**[B —2018]**

**BILL**

**To provide for the establishment of a South African Council for Social Service Practitioners; to determine its composition, powers and functions; to provide for the establishment, composition, powers and functions of social service professional boards and social service occupational boards; to provide for the registration of social service practitioners; to promote and regulate the education, training and professional development of social service practitioners; to regulate the professional conduct of social service practitioners; and to provide for incidental matters.**

**ARRANGEMENT OF SECTIONS****CHAPTER 1****DEFINITIONS AND OBJECTS OF ACT**

1. Definitions
2. Objects of Act

**CHAPTER 2****SOUTH AFRICAN COUNCIL FOR SOCIAL SERVICE PRACTITIONERS**

3. Establishment of South African Council for Social Service Practitioners
4. General objects and powers of Council

## 3

5. Powers of Council regarding registration
6. Powers and functions of Council regarding education, training and development.
7. Appeal procedure for education and training institutions and education, training and development service providers
8. General duties of Council

**CHAPTER 3****COMPOSITION OF COUNCIL AND APPOINTMENT OF OFFICE-BEARERS**

9. Composition of Council
10. Term of office of members of Council
11. Appointment of new Council
12. Recusal of member with conflicting interests
13. Fiduciary duties of Council members
14. Disqualification from membership of Council
15. Vacation of office and filling of vacancies
16. President and Deputy-president of Council
17. Discipline and removal of Council members
18. Executive committee
19. Finance committee
20. Risk and Audit Committee
21. Human resource and remunerations Committee
22. Occupational Committee
23. Other committees

**CHAPTER 4****REGISTRAR AND SECRETARIAT**

24. Appointment of Registrar
25. Term of Office of Registrar
26. Appointment of Deputy-Registrar
27. Functions of Registrar and Deputy-Registrar
28. Appointment of staff of secretariat
29. Disciplinary procedure for secretariat
30. Protocol for effecting discipline of secretariat
31. Meetings and operating procedures of Council
32. Remuneration and allowances payable to Council members and members of social service boards.
33. Funding and investments
34. Unauthorised, irregular or fruitless and wasteful expenditure
35. Financial year and accounting

**CHAPTER 5****SOCIAL SERVICE PRACTITIONERS**

36. Designation and scope of social service practitioners
37. Establishment of social service boards
38. Objects of social service boards
39. General powers of social service boards

40. Appointment and composition of social service boards
41. Appointment of chairperson and deputy-chairperson of social service boards
42. Meetings of social service boards
43. Operating procedures of social service boards
44. Vacation of office and filling of vacancies on social service boards
45. Disqualification from membership of social service boards
46. Discipline and removal of members from social service boards

## **CHAPTER 6**

### **REGISTRATION OF SOCIAL SERVICE PRACTITIONERS**

47. Categories of registration
48. Scope of practice
49. Compliance with registration
50. Social service professional and occupational registers
51. Application for registration
52. Disqualification from registration
53. Removal of name from register
54. Renewal or restoration of registration
55. Registration of additional qualifications and specialisations
56. Continuing professional development
57. Registration of international qualifications
58. Appeals against registration decisions

**CHAPTER 7****DISCIPLINARY POWERS AND PROCEDURES**

59. Professional and ethical conduct
60. Complaints of unprofessional or unethical conduct
61. Investigation of unprofessional or unethical conduct
62. Appointment of disciplinary committee
63. Charge of unprofessional or unethical conduct
64. Pre-disciplinary hearings
65. Disciplinary hearings
66. Summoning of witnesses
67. Disciplinary sanctions and powers of disciplinary committee
68. Admission of guilt fines
69. Proceedings after disciplinary hearing
70. Appeals against disciplinary decisions
71. Appeals committee and appeals procedure

**CHAPTER 8****GENERAL PROVISIONS**

72. Community service
73. Offences and penalties
74. Delegation of powers and functions
75. Rules

- 76. Regulations
- 77. Repeal of laws
- 78. Transitional provisions
- 79. Short title

## CHAPTER 1

### INTERPRETATION AND OBJECTS

#### Definitions

1. In this Act, unless the context indicates otherwise—

**"accredited"** means recognition or certification by the Council or the relevant social service professional or social service occupational board in terms of this Act as meeting the prescribed relevant education and training requirements;

**"caregiver"** means a registered social service practitioner who provides psycho-social and physical care and support to older persons, persons with disabilities and those with chronic illnesses;

**"child and youth care worker"** means a registered social service practitioner who interacts with children and youth, providing holistic care, therapeutic, developmental, educational and recreational programmes that promote and enhance optimum development including practitioners providing supervisory and management support services;

**"committee"** means a committee of the Council contemplated in sections 18, 19, 20, 21, 22, 61, 62 and 71 or any other committee established by the Council in terms of section 23 or any committee established by a social service board;

**"community development practitioner"** means a registered social service practitioner who facilitates community development initiatives and collective solutions to address social development issues, needs and problems that arise within that community including practitioners providing supervisory and management support services;

**"Council"** means the South African Council for Social Service Practitioners established in terms of section 3;

**"Department"** means the department responsible for social development;

**"early childhood development practitioner"** means a registered social service practitioner who provides early childhood development services through formal early childhood development programmes, family services, play groups and training, including social service practitioners providing supervisory and management support services;

**"education and training institution"** means a university, college or other education and training institution which offers an education and training programme or programmes leading to a prescribed qualification;

**"education, training and development service provider"** means any institution, organisation, professional body, professional association, individual or company approved by the respective social service board and accredited to provide qualification for the education, training and development programmes and continuous professional development for social service practitioners;

**"employer"** means any person or organisation that employs social service practitioners in terms of this Act;

**"family member"** in respect of any member of the Council, social service boards and committees, means his or her parent, sister, brother, child, spouse, life partner,



including any other relative who resides permanently with that member and any other relative who is of necessity dependent upon the member;

**"learner"** means a person who is learning subjects and skills related to social service practice as set out and approved by the QCTO in accordance with the National Qualifications Framework Act, 2008 (Act No. 67 of 2008);

**"Mental Health Care Act"** means the Mental Health Care Act, 2002 (Act No.17 of 2002);

**"Minister"** means the Minister responsible for social development;

**"practice"** means a service or type of work identified within the approved scope of practice of a social service profession or a social service occupation in terms of section 48;

**"prescribed"** means as prescribed by rule or regulation;

**"prescribed qualification"** means a minimum qualification prescribed by regulation;

**"qualification"** means any designated and approved social service degree, diploma or certificate awarded after assessment of a person's competency in a particular subject;

**"Registrar"** means the person appointed as Registrar in terms of section 24;

**"regulation"** means a regulation made by the Minister in terms of this Act;

**"Republic"** means the Republic of South Africa;

**"rule"** means a rule made by the Council in terms of this Act;

**"SAQA"** means the South African Qualifications Authority contemplated in chapter 4 of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008);

**"SETA"** means a sector education and training authority established in terms of section 9(1) of the Skills Development Act, 1998 (Act No. 97 of 1998);

**"social service board"** means a social service professional board or a social service occupational board established in terms of section 37 of this Act;

**"social service occupation"** means a series of jobs or specialised tasks which can be grouped together for classification and designated by the Minister as a social service occupation contemplated in section 45;

**"social service practitioner"** means any person registered in a social service profession or occupation in terms of this Act to practise and render a service within the social service sector;

**"social service profession"** means any social service practice designated by the Minister as a social service profession contemplated in section 36(1);

**"Social Service Professions Act"** means the Social Service Professions Act, 1978 (Act No. 110 of 1978);

**"social service sector"** means groups of organisations and persons rendering social welfare and social development services;

**"social worker"** means a registered social service practitioner who may practise with individuals or communities and groups, to promote social change, build capacity in human relationships, enhance social functioning and advocate for social justice, including supervisory and management support functions;

**"student"** means a person who is studying at a recognised education and training institution to obtain a suitable qualification to practice as a social service practitioner;

**"this Act"** includes the rules and regulations; and

**"QCTO"** means the Quality Council for Trades and Occupations established in terms of section 26G of the Skills Development Act, 1998 (Act No. 97 of 1998).

## **Objects of Act**

2. The objects of this Act are to—

- (a) provide for the establishment of the Council;
- (b) provide for the establishment of social service professional boards for designated social service professions;
- (c) provide for the establishment of social service occupational boards for designated social service occupations;
- (d) advance social justice by promoting developmental social services;
- (e) promote and protect the interests of the public in matters involving social service practitioners;
- (f) advance and protect the interests of social service practitioners;
- (g) promote and ensure adherence to the professional and ethical standards of social service practitioners;
- (h) promote the adherence to the code of good practice by employers;
- (i) promote the standard and quality of education, training and development of social service practitioners;
- (j) provide for the registration of social service practitioners and professional social services; and
- (k) provide for disciplinary action in respect of unprofessional and unethical conduct by social service practitioners.

**CHAPTER 2****SOUTH AFRICAN COUNCIL FOR SOCIAL SERVICE PRACTITIONERS****Establishment of South African Council for Social Service Practitioners**

3. (1) There is hereby established a juristic person to be known as the South African Council for Social Service Practitioners in terms of this Act, which exercises the powers and performs the functions conferred upon or assigned by this Act.

(2) The Council is entitled to sue and be sued, to acquire, possess and alienate moveable and immovable property and to acquire rights and incur liabilities.

(3) The Council must at all times function in a transparent, responsive, efficient and accessible manner.

**General objects and powers of Council**

4. The Council must, in order to achieve the objects of this Act—
- (a) advise the Minister on—
    - (i) any matter affecting social service practitioners and practice;
    - (ii) any proposed amendments to this Act; and
    - (iii) any other matter arising from or connected to the application of this Act;
  - (b) take steps it considers necessary to—
    - (i) protect the interests of the public in their dealings with social service

- practitioners and practice; and
- (ii) enhance the integrity and professionalization of social service practitioners and practice;
- (c) promote and ensure the maintenance and improvement of standards of service for social service practitioners;
- (d) advise, consult and liaise with relevant public authorities on matters affecting social service practitioners and practice;
- (e) investigate and report on any matter affecting social service practitioners and practice;
- (f) determine policy on any matter concerning social service practitioners and practice and the administration;
- (g) authorise policy proposals presented to it to enable the relevant division to proceed with the drafting of policy;
- (h) ratify a policy as contemplated in paragraph (f);
- (i) ensure the uniform implementation and application of such policy by social service boards;
- (j) develop and issue guidelines on any matter affecting social service practitioners and practice;
- (k) advise social service boards on matters affecting social service practitioners and practice and coordinate the activities of social service boards;
- (l) provide the necessary financial, administrative and other assistance in order to enable social service boards to perform their functions;
- (m) recognise, consult and liaise with social service practitioner associations on matters affecting social service practitioners and practice;
- (n) promote, undertake or cause research to be undertaken on matters relating

- to social service practitioners and practice and provide feedback on findings;
- (o) establish and strengthen relationships with social service councils of other countries for the advancement of social service practitioners and practice;
  - (p) exercise or perform any other power or function conferred or imposed upon the Council by or under this Act or any other law; and
  - (q) generally, take such other steps as may be necessary for or conducive for the achievement of the objects of this Act.

### **Powers of Council regarding registration**

- 5.** The Council must subject to this Act—
- (a) recommend for approval to the Minister the—
    - (i) minimum standards for practice, practical training and qualification;
    - (ii) competency framework and conditions required for the registration of social service practitioners; and
    - (iii) period of validity, conditions and requirements for the renewal of registration;
  - (b) oversee the consideration and decision for registration and renewal thereof;
  - (c) monitor the development and updating of the registers of social service practitioners; and
  - (d) ensure that the Registrar keeps, updates and produces the register on request by members of the public and employers as prescribed.

## **Powers and functions of Council regarding education, training and development**

- 6.** (1) The Council must subject to this Act—
- (a) recommend for approval to the Minister, after consultation with SAQA, the minimum standards of education, training and development applicable to social service practitioners;
  - (b) recommend persons for appointments as experts for quality assurance of the education, training and development of social service practitioners;
  - (c) consult with the Council on Higher Education established in terms of Section 4 of the Higher Education Act, 1997 (Act No. 101 of 1997) regarding matters relevant to education, training and development of social service practitioners;
  - (d) consult with the Council on Higher Education, the QCTO, the relevant Sector Education and Training Authorities, SAQA and any relevant body accredited by SAQA regarding education, training and development of social service practitioners; and
  - (e) promote collaboration in the field of education, training and development of social service practitioners in the Republic and internationally.
- (2) The Council may, subject to this Act—
- (a) recognise, either wholly or in part, education and training institutions or education, training and development service providers or withdraw such recognition;
  - (b) recognise any qualification held by any person whether obtained within or outside the Republic as being equal, either wholly or in part, to any

prescribed qualification;

- (c) assess and recognise prior non-formal or experiential learning of any person for the purpose of registration as a social service practitioner; and
- (d) enter into agreements with persons or bodies in the Republic or internationally regarding education, training and development of social service practitioners.

(3) The Council must, before withdrawing any recognition contemplated in subsection (2)(a)—

- (a) give notice in writing, within 30 days from date of resolution, to the concerned education and training institution or education, training and development service provider of its intention to withdraw the recognition with reasons; and
- (b) afford the concerned education and training institution or education, training and development service provider 21 days in which to submit grounds for the Council not to withdraw the recognition.

(4) No qualification may, in terms of subsection (2)(b), be recognised as being equal, either wholly or in part, to any prescribed qualification, unless that qualification meets the standard of professional education, training and development as prescribed.

(5) The Council must, in exercising or performing its powers or functions regarding education, training and development, take into account the policies and procedures of the SAQA and those of any other statutory authority exercising standard setting or quality assurance powers in respect of education, training and development of social service practitioners.

(6) The Council must make rules prescribing—



- (a) conditions relating to continuing professional development to be undergone by social service practitioners in order to retain or renew their registration;
- (b) the nature and extent of continuing professional development to be undergone by social service practitioners;
- (c) the criteria for recognition of continuing professional development programmes offered by education and training institutions and education, training and development service providers; and
- (d) any matter pertaining to education, training and development in the social service sector.

**Appeal Procedure for education and training institutions and education, training and development service providers**

7. (1) The Council must establish the appeals committee as prescribed.

(2) An education and training institution or education, training and development service provider which is not satisfied with the decision of the Council to withdraw its recognition as contemplated in sections 6(2)(a), may appeal against the decision of the Council to the appeals committee.

(3) The appellant must, within 30 days from the date on which it is notified in writing of the decision against which it wishes to appeal, submit to the Minister a written notification of appeal on which the grounds for appeal are stipulated.

(4) The Minister must, within 14 days from receipt of the appeal, communicate receipt of the appeal to the appellant.

(5) The Minister must, within 90 days from receipt of the appeal, notify the appellant of the outcome of the appeal.

### **General duties of Council**

**8.** (1) The Council must ensure that it has and maintains—

- (a) an effective, efficient and transparent system of financial and risk management and internal control, including a system of internal audit;
- (b) an appropriate procurement and provisioning system that is fair, equitable, transparent, competitive and cost effective; and
- (c) an appropriate procurement policy in accordance with section 217 of the Constitution of the Republic of South Africa, 1996.

(2) The Council must take effective and appropriate steps to—

- (a) collect all revenue due to the Council; and
- (b) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the Council.

(3) The Council is responsible for the management, including the safeguarding of its assets and for the management of its revenue, expenditure and liabilities.

(4) The Council must take effective and appropriate disciplinary steps against any employee of the Council who—

- (a) contravenes or fails to comply with this Act;
- (b) commits an act that undermines the financial management and internal control systems of the Council; or

(c) makes or permits any irregular expenditure, fruitless and wasteful expenditure or expenditure not complying with the operational policies of the Council.

(5) The Council may delegate any of its functions in this section in writing.

(6) The President of the Council must register with the Minister, within three months of his or her coming into office, a strategic plan of action for approval.

(7) After the strategic plan of action is registered with the Minister, amendments may only be effected if the majority of the members of the Council recommend such amendment and such amendment is then approved by the Minister.

(8) The President of the Council must submit bi-annual reports to the Minister on progress with regard to the implementation of the strategic plan of action.

### CHAPTER 3

#### COMPOSITION OF COUNCIL AND APPOINTMENT OF OFFICE-BEARERS

##### Composition of Council

9. (1) The Council consists of a minimum of 15 members appointed as follows:

(a) persons elected by the social service sector as prescribed to serve on the Council as follows -

(i) one social service practitioner representing the disability sector and actively involved in the social service sector;

- (ii) one person from education institutions;
  - (iii) two social service practitioners from the social service occupations or professions for which a social service board is established;
  - (iv) one person from the social service sector with financial management and accounting skills; and
  - (v) one person from the community who is actively involved in the social service sector;
- (b) five persons appointed by the Minister in the prescribed manner of whom-
- (i) one legally qualified person well versed in labour, constitutional and administrative law;
  - (ii) one person from the trade unions which represent employees engaged in the social service sector;
  - (iii) one representative from the Higher Education sector as nominated by the Minister of Higher Education;
  - (iv) one senior manager representing the Provincial Departments of Social Development as nominated by the Heads of Department; and
  - (v) one senior manager representing the National Department of Social Development.

(2) When appointing the members of the Council, the Minister must strive to ensure that the composition of the Council is broadly representative of society, with due regard to race, gender, disability and the demographics of the Republic.

(3) The Minister must by notice in the *Gazette*, and two newspapers, publish and circulate nationally—

- (a) an invitation for the nominations as contemplated in subsection (1); and
- (b) the names of persons appointed as members of the Council in terms of subsection (1) and the dates of commencement of their terms of office.

(4) The notice contemplated in subsection (3) must specify a

period of at least 30 days for nominations to be submitted to the Minister.

(5) If any required nomination is not submitted within the specified period as prescribed, the Minister may appoint a suitably qualified person as a member of the Council as prescribed in respect of the relevant category.

(6) The Registrar must invite nominations for social service practitioners from the established social service boards to be elected as members of the Council.

(7) The Registrar must ensure that the nomination and election of members to serve on the Council is conducted in accordance with the procedure as prescribed.

### **Term of office of members of Council**

**10.** (1) Members of the Council hold office for a period of five years from the date of their appointment by the Minister.

(2) A member of the Council may, on expiry of that member's term of office, be reappointed, but may not serve more than two consecutive terms of office.

(3) The term of office of the member of the Council may only be extended as contemplated in Section 11(5).

### **Appointment of new Council**

**11.** (1) For the purposes of section 10, the Registrar must notify the Minister in writing at least 12 months prior to the expiration of the term of office of

the serving Council members, and propose a date for the election of new Council members.

(2) The nomination process for the election and appointment of the new Council members must commence 12 months prior to the expiration of the term of office of the Council.

(3) Appointment of the new Council by the Minister must be finalised three months prior to the expiration of the term of office of the serving Council members.

(4) Six months prior to the Council's term of office coming to an end, the Registrar must provide the Minister with a detailed progress report on the nomination and election of the new Council.

(5) Similarly the process of nominations and appointment by the Minister must be overseen by the responsible line function within the Department within the same time frames as contemplated above for the Registrar.

(6) Despite section 10, and taking into consideration section 24(7), whenever the Council's term of office has come to an end without the Registrar having acted in terms of subsections (1) and (2), the Council will continue to perform its functions for a period not exceeding six months with the approval of the Minister.

(7) The approval contemplated in subsection (5) must be obtained by the President of the Council.

(8) Should the term of office of the Council be extended as contemplated in subsection (5), the Registrar must provide the Minister with reasons for his or her failure to comply with subsections (1) and (2).

(9) Failure to adhere to the requirements illustrated in this section

will result in disciplinary action being instituted against the responsible official.

### **Recusal of member with conflicting interests**

**12.** (1) A member of the Council—

- (a) must make full disclosure to the Council of any conflict of interest including any potential conflict;
- (b) may not vote, attend or participate in any proceedings in relation to any matter before the Council in respect of which that member has a conflict of interest; and
- (c) must comply with any decision as to whether such a member is entitled to participate in any particular proceedings of the Council.

(2) For the purpose of this section, a member has a conflict of interest if—

- (a) the family member, partner or business associate of the member, has a financial or other interest in the business that is involved with the project;
- (b) the member has any other interest that may preclude, or may reasonably be perceived as precluding, the member from performing the functions of a member of the Council in a fair, unbiased and proper manner; or
- (c) he or she, or his or her family member, partner or business associate is a director, member or partner of, or has a controlling interest or any financial or other interests in the registration or recognition, or any other right or privilege to be granted by the Council.

(3) A disclosure in terms of subsection 1(a) must be recorded in the minutes of a meeting of the Council.

### **Fiduciary duties of Council members**

- 13.** A member of the Council must—
- (a) ensure reasonable use and protection of the assets and records of the Council;
  - (b) act in good faith and in the best interests of the Council in managing its financial affairs;
  - (c) conduct all the affairs of the Council in accordance with the principles of good governance;
  - (d) disclose to the Council any direct or indirect personal or private interest that a member or a member's spouse, partner or family member may have in any matter before the Council;
  - (e) withdraw from the proceedings of the Council when that matter concerns the direct or indirect personal or private interests of such member or his or her spouse, partner or family member, unless the Council considers that the member's direct or indirect interest in a matter is trivial or irrelevant;
  - (f) not act in a way that is inconsistent with the responsibilities of the Council in terms of this Act; and
  - (g) not use the position, privileges, or confidential information obtained as a member of the Council for personal gain or to improperly benefit another person.

### **Disqualification from membership of Council**



- 14.** A person may not be appointed as a member of the Council if that person—
- (a) is not a citizen of the Republic, and is not ordinarily resident in the Republic;
  - (b) is an un-rehabilitated insolvent;
  - (c) is disqualified under any law from practising that person's profession;
  - (d) is of unsound mind as declared by a competent court;
  - (e) has been convicted of an offence and was sentenced to imprisonment without the option of a fine;
  - (f) has been convicted of fraud or any other offence involving dishonesty or any sexual offence, and sentenced with the option of a fine, imprisonment or both;
  - (g) has at any time been removed from an office of trust on account of a breach of fiduciary duty or misconduct;
  - (h) has been found guilty of unprofessional and unethical conduct in terms of this Act;
  - (i) has a direct or indirect financial interest in any matter concerning the Council;  
or
  - (j) is found to be unsuitable to work with children, older persons or persons with disabilities by a competent court and whose details appear in the—
    - (i) national child protection register as contemplated in the Children's Act, 2005 (Act No. 38 of 2005);
    - (ii) national register for sex offenders as contemplated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007); or
    - (iii) register of persons convicted of abuse of older persons or any crime

or offence related to the abuse of older persons as contemplated in section 31 of the Older Persons Act, 2006 (Act No.13 of 2006).

### **Vacation of office and filling of vacancies**

**15.** (1) A member of the Council must vacate his or her office if the member—

- (a) becomes disqualified from being appointed as a member in terms of section 14;
- (b) has been absent from more than two consecutive ordinary meetings of the Council without the leave of the Council;
- (c) resigns by giving three months written notice addressed and delivered to the Minister;
- (d) ceases to hold the position which is inherent for the appointment to the Council;
- (e) is declared by a competent court to be of unsound mind, or has a mental disorder, or is detained in terms of the Mental Health Care Act; or
- (f) is removed from office by the Minister—
  - (i) in the public and or professional interest and for a just cause;
  - (ii) after consulting the Council; or
  - (iii) after a fair hearing.

(2) Every vacancy on the Council must, within three months of the vacancy occurring, be filled in the same manner in which the member who vacates office was elected and appointed and every member so elected and appointed must hold office for the unexpired portion of the period for which his or her predecessor was appointed.

(3) When a vacancy arises from the circumstances referred to in subsection (1), the Minister may appoint a qualified person to act in the vacant post until the process contemplated in subsection (2) is completed.

(4) The acting appointment contemplated in subsection (3) may not exceed a period of nine months.

(5) It is incumbent on the Registrar or the Department, as the case may be, to ensure that any vacancy that arises as contemplated in this section is filled in accordance with subsection (2).

(6) Where a vacancy is not filled as contemplated in subsection 2, the Registrar or the Department, as the case may be, must provide a detailed report to the Minister within seven days of expiration of the three months contemplated for the filling of such vacancy.

### **President and Deputy-President of Council**

**16.** (1) At a first meeting of a newly constituted Council, the members of the Council must nominate from amongst themselves—

- (a) two members who are registered to practise as social service practitioners to become the President of the Council; and
- (b) two members who are registered to practise as social service practitioners to become the Deputy-President of the Council.

(2) The Registrar must notify the Minister of the members nominated for appointment as President and Deputy-President of the Council within seven days of such nomination.

(3) The Minister must appoint the President and Deputy-President

from the nominations made in terms of subsection (1)(a) and (b).

(4) If the office of the President or Deputy-President becomes vacant, the members of the Council must, at the first meeting after such vacancy has occurred, nominate members to become the President or Deputy-President of the Council, as the case may be, in accordance with the nomination process contemplated in subsection (1).

(5) The Registrar must notify the Minister of the members nominated in terms of subsection (4) within seven days of such nomination and the Minister must appoint the new President or Deputy-President who will hold office for the unexpired portion of the period for which his or her predecessor was appointed.

(6) The President and the Deputy-President of the Council—

- (a) may hold office for the duration of their terms of office as members of the Council;
- (b) on expiry of their term of office, are eligible for re-appointment or re-election as President and Deputy-President but may not serve more than two consecutive terms of office; and
- (c) may vacate office without terminating their membership of the Council.

### **Discipline and removal of Council members**

17. (1) The Minister must, within seven days of being informed of a transgression by the President of the Council of a provision of this Act, a regulation or directive made thereunder, take appropriate disciplinary steps against the President of the Council.

(2) The President of the Council must vacate his or her office when

the majority of the members of the Council pass a vote of no confidence in the President at any sitting of the Council.

(3) The President of the Council must—

- (a) within seven days, take appropriate disciplinary steps against the Deputy-President or a member of the Council, as the case may be, if he or she does not comply with the provisions of this Act or a regulation or directive made thereunder;
- (b) within seven days, report to the Minister the particulars of such non-compliance; and
- (c) within seven days after completion of the disciplinary process report to the Minister the particulars of the disciplinary steps taken.

(4) If after the disciplinary steps have been taken against a member of the Council and such member has been found guilty of the following—

- (a) contravening the provisions of this Act or a regulation or directive made thereunder;
- (b) misconduct; or
- (c) inability to perform his or her duties efficiently,

the Minister must remove such a member of the Council from office.

### **Executive committee**

**18.** (1) The executive committee of the Council consists of the following members—

- (a) the President of the Council;
- (b) the Deputy-President of the Council;

- (c) the chairperson of the finance committee;
- (d) the chairperson of the human resource and remunerations committee; and
- (e) two other members designated by the Council.

(2) The executive committee must—

- (a) monitor that the decisions of the Council are implemented and recorded by the secretariat;
- (b) exercise any power or perform any functions delegated to it by the Council; and
- (c) ensure that administrative support serves as the secretariat to the Council and social service boards.

(3) A decision of the executive committee is binding on members of the Council.

(4) Subsection (2) does not empower the executive committee to set aside or amend any decisions of the Council.

(5) The quorum for and the procedure at meetings of the executive committee are as prescribed.

### **Finance committee**

**19.** (1) The Council must appoint a finance committee from amongst its members comprising of—

- (a) a chairperson who is a member of the Council as contemplated in 9 (1)(a) (iv);
- (b) one member from the risk and audit committee; and
- (c) a representative from each social service board.

- (2) The chairperson may invite a representative from a social service board and any other member from the Council as required.
- (3) The finance committee must sit quarterly.
- (4) In addition to the quarterly meetings, special meetings may be convened as required.
- (5) The finance committee must develop policies to ensure the effective and efficient control of the finances in accordance with the principles of good governance and the generally accepted accounting practices.

### **Risk and audit committee**

- 20.** (1) The Council must appoint a risk and audit committee comprising the following suitably qualified external experts—
- (a) a person with a qualification and experience in risk management, auditing and accounting who will be appointed as the chairperson;
  - (b) a person with a qualification and experience in external auditing; and
  - (c) a person with a qualification and experience in internal auditing.
- (2) The chairperson of the finance committee must be a member of the risk and audit committee.
  - (3) The risk and audit committee must sit quarterly.
  - (4) In addition to the quarterly meetings, special meetings may be convened as required.
  - (5) The risk and audit committee must develop policies to mitigate risk including codes of conduct and ethics for members of the Council, social service boards and committees.

### **Human resource and remunerations committee**

**21.** (1) The Council may appoint a human resource and remunerations committee from amongst its members comprising—

- (a) the trade union representative as contemplated in section 9 (1)(b)(ii);
- (b) one legally qualified person as contemplated in section 9 (1)(b)(i); and
- (c) the chairperson of the finance committee.

(2) The chairperson may invite a representative from a social service board and any other member from the Council as required.

(3) The human resource and remunerations committee must sit quarterly.

(4) In addition to the quarterly meetings, special meetings may be convened as required.

(5) The human resource and remunerations committee must develop policies to ensure the effective management of human resources.

### **Occupational committee**

**22.** (1) The Council may establish an occupational committee comprising—

- (a) two members from the Council representing education and training



institutions one must be the chairperson;

- (b) one member representing each social service board; and
- (c) the Registrar.

(2) The occupational committee must—

- (a) guide the development of emerging social service occupations to become a social service board;
- (b) screen applications to be recognised as occupations;
- (c) provide the guidelines and minimum standards for education and training;
- (d) liaise with the occupational groups seeking recognition; and
- (e) report on the progress of the application by the occupational group seeking recognition to a professional level when required.

### **Other committees**

**23.** (1) The Council may establish other committees that it considers necessary from amongst its members for the effective exercise of any power or performance of any functions.

(2) Each committee must have a minimum of three members but not more than five members including members from the social service boards.

(3) The members appointed to a committee must appoint a Chairperson from amongst themselves.

(4) The Council may obtain the assistance of an external persons with appropriate expertise to assist a committee where necessary.

(5) The Council may in respect of any committee established under subsection (1)—

- (a) appoint the members of the committee, which may include members of the Council, social service boards and subject matter experts as contemplated in subsection (4);
- (b) determine the terms of reference of the Committee;
- (c) prescribe rules regarding the holding of and procedure at meetings;
- (d) dissolve or reconstitute the committee when necessary;
- (e) determine the terms and conditions applicable to any person appointed under subsection (4), including the work to be performed or service to be rendered; and
- (f) conclude a written agreement with that person.

(6) Every committee established by the Council must—

- (a) assist the Council in the exercise of any power or performance of any functions or in respect of matters delegated by the Council; and
- (b) advise the Council on matters specified by the Council.

(7) The experts contemplated in subsection (4) may be remunerated in accordance with the determination made by National Treasury from time to time.

## CHAPTER 4

### REGISTRAR AND SECRETARIAT

#### Appointment of Registrar

**24.** (1) The Council, subject to the approval of the Minister, must appoint a suitably qualified and experienced person as Registrar.

(2) The Registrar must possess:

- (a) a qualification recognised by SAQA as designated in the social service sector;
- (b) registration with Council; and
- (c) experience at a senior management level in the social service sector including experience in providing statutory, executive, organisational leadership and strategic direction.

(3) The Registrar—

- (a) is an employee of the Council;
- (b) is the accounting authority of the Council;
- (c) is responsible for the efficient management of the administrative support to the Council and the social service boards, including financial management and human resources management;
- (d) is the head of administrative support which serves as the secretariat to the Council and the social service boards; and
- (e) must exercise the powers and perform the functions conferred on the Registrar by or under this Act or delegated to the Registrar by the Council.

(4) The Council must determine the remuneration, allowances, benefits, and other terms and conditions of employment of the Registrar.

(5) The Registrar's performance agreement—

- (a) must be signed with the President of the Council within six weeks of the Registrar being appointed; and
- (b) must be signed annually with the President of the Council.

(6) The Registrar reports and is accountable to the President of

the Council.

(7) The Registrar must lead and support policy development as commissioned by the Council and social service boards to a committee.

(8) If the Registrar fails to exercise his or her powers or perform his or her functions as stipulated in his or her performance agreement, the Council must take the necessary disciplinary steps against the Registrar.

### **Term of office of Registrar**

**25.** (1) The Registrar will be contracted for a period of five years from the date of his or her appointment by the Council.

(2) The Registrar may, on the expiry of his or her contract and upon the recommendation of the Council, be reappointed but must not serve more than two consecutive contractual periods.

### **Appointment of Deputy-Registrar**

**26.** (1) The Council, subject to the approval of the Minister, may appoint a Deputy-Registrar as prescribed.

(2) The Deputy-Registrar must possess:

(a) a qualification recognised by SAQA as designated in the social service sector;

(b) registration with Council; and

(c) experience at a senior management level in the social service sector and managing the operations of an organisation.

(3) Whenever the Registrar, because of absence or for any other reason, is unable to carry out the functions of that office, or whenever such office becomes vacant, the Council, subject to the approval of the Minister, may appoint the Deputy-Registrar in that office to act in the place of such Registrar, during the period of such absence or incapacity, or to act in the vacant office until the vacancy is filled, as the case may be.

(4) The acting Registrar will have all the powers and authority to exercise the functions of the Registrar.

(5) Notwithstanding subsections (3) and (4), if so required, the Council may, in consultation with the Minister, appoint an acting Registrar other than the Deputy-Registrar to exercise the powers and perform the functions of the Registrar as conferred by the Act.

### **Functions of Registrar and Deputy-Registrar**

27. (1) The Registrar must provide statutory, executive, organisational leadership and strategic direction in respect of the management of the Council including—

- (a) management of the Administration's business and strategy;
- (b) renders a support function to Council and social service boards;
- (c) accounting and financial management;
- (d) corporate governance management;
- (e) operational management;
- (f) customer management and supervisory services; and
- (g) management of human resource matters.

- (2) The Deputy-Registrar must—
- (a) perform the function of the Registrar in the absence of the Registrar as contemplated in section 26(3);
  - (b) provide oversight in human resource, communication, and information technology;
  - (c) oversee the registration division;
  - (d) provide oversight, maintenance, safe-keeping and retrieval of records as prescribed; and
  - (e) perform any other function as delegated by the Registrar.

### **Appointment of staff of secretariat**

28. (1) The Registrar must appoint staff to assist the Council in exercising its powers and performing its functions.

(2) Appointment of staff must be in accordance with the human resource management plan, the human resource management policy and the organisational structure as approved by the Council.

(3) All employees who are employed in terms of the Social Service Professions Act are considered to have been employed in terms of this Act.

(4) The staff so appointed must perform administrative and secretarial functions to ensure the smooth management and effective functioning of the Council and social service boards.

(5) The Council must determine the remuneration, allowances, benefits, and other terms and conditions of appointment of its staff in accordance with the existing legislation and policies of the Council and social service boards.

**Disciplinary procedure for secretariat**

**29.** (1) Disciplinary action against the staff of the secretariat and the Registrar must be in accordance with the Labour Relations Act, 1995 (Act No. 66 of 1995) and the approved Council's human resource policy and procedures.

(2) The Registrar must—

- (a) ensure that appropriate disciplinary procedures are instituted against any staff member of the secretariat who transgresses any provisions of this Act, regulations, rules, or any determination or directive made thereunder;
- (b) immediately report to the Council the particulars of any transgression referred to in paragraph (a); and
- (c) as soon as possible, report to the Council the particulars of the disciplinary steps taken.

(3) Where the Registrar fails to exercise disciplinary action against any staff member of the secretariat, the relevant committee of the Council will notify the President of the Council of such inaction.

**Protocol for effecting discipline of secretariat**

**30.** (1) The chairperson of a disciplinary hearing has the power to—

- (a) summons staff members and other persons as witnesses;
- (b) cause an oath or affirmation to be administered to them;
- (c) examine them; and
- (d) call for the production of books, documents and other objects.

(2) When a chairperson of a disciplinary hearing pronounces a sanction in a case of misconduct, the following persons must give effect to the sanction—

(a) in the case of a Registrar, the President of the Council; and

(b) in the case of any other staff member of the secretariat, the Registrar.

(3) In the event that a President of the Council has not been appointed in terms of section 16, the Minister may perform the function contemplated in subsection (2)(a).

(4) A staff member may lodge an internal appeal in accordance with the approved Council's human resource policy and procedures.

(5) Where applicable, costs for travel, subsistence and other fees for witnesses will be incurred by the Council during disciplinary hearings.

### **Meetings and operating procedures of Council**

**31.** (1) The Council must meet at least four times a year and at a venue determined by the President of the Council.

(2) A special meeting may be called at the written request of the Minister, the President of the Council, or the majority members of the Council.

(3) The President of the Council, or in the absence of the President, the Deputy-President of the Council presides at meetings of the Council.

(4) If the President and Deputy-President of the Council are absent from a meeting of the Council, the majority of the members present at the meeting may nominate a member to preside at the meeting unless the President of the Council nominates a proxy to preside at the meeting.



(5) The majority of the members that are appointed as contemplated in section 9 constitutes a quorum.

(6) The Registrar and chairperson of each established social service board must attend each meeting of Council and have no voting powers.

The Council may prescribe rules to further regulate its proceedings.

(7) A decision of the Council is not invalid by reason only of a vacancy on the Council.

(8) A decision of the Council is invalid where a person failed to disclose his or her interest as contemplated in section 12 and actively participated and influenced the decision making process.

(9) A decision of the Council is invalid where a person who is not entitled to sit as a member of the Council sat as a member at the time the decision was taken and actively participated and influenced the decision making process.

(10) The decision taken by the majority of members attending the meeting is valid.

(11) A member of the Council must not in any manner participate in the proceedings at any meeting of the Council if, in relation to any matter before the Council—

- (a) he or she or his or her family member, partner or business associate is a director, member or partner of, or has a controlling interest or any financial or other interests in, the registration or recognition, or any other right or privilege to be granted by the Council; or
- (b) he or she has any interest which precludes him or her from performing his or her functions as a member of the Council in a fair, unbiased and proper manner.

### **Remuneration and allowances payable to Council members and members of social service boards**

**32.** (1) The Council must annually recommend to the Minister the fees payable to members of the Council and members of social service boards and to committees.

(2) The Minister must publish regulations in the Government *Gazette* in this regard.

### **Funding and investments**

**33.** (1) The funds of the Council consist of—

- (a) money appropriated by Parliament in order to enable the Council to carry out its programmes;
- (b) money received by the Council in terms of this Act as prescribed;
- (c) fines imposed and recovered in terms of this Act;
- (d) income derived by the Council from any investment; and
- (e) money accruing to the Council from any other source.

(2) The Minister must, with the concurrence of the Minister of Finance—

- (a) advance or grant to the Council, out of money appropriated by Parliament, such amounts as he or she considers necessary in order to enable the Council to carry out its programmes; and
- (b) determine the conditions to and repayment of the advance.

(3) The Registrar, with the approval where necessary of the Council, may use the Council's funds for defraying expenditure incurred in achieving its objects, exercising its power and performing its functions under this Act.

(4) The Council may invest any of its funds not immediately required.

(5) The Registrar and the Council must apply due care and diligence when investing any funds or incurring any expenditure from the funds of the Council.

(6) The Registrar must provide monthly income and expenditure reports to the Council.

(7) The Council must apply due care and diligence when investing any money or incurring any expenditure from the funds of the Council.

### **Unauthorised, irregular or fruitless and wasteful expenditure**

**34.** (1) Without limiting liability in terms of common law or other legislation—

- (a) a member of the Council is liable for unauthorised expenditure if that member knowingly, or after having been advised by the Registrar that the expenditure is likely to result in unauthorised expenditure, instructed an official of the Council to incur such expenditure;
- (b) the Registrar is liable for unauthorised expenditure deliberately or negligently incurred by him or her, subject to subsection (3);
- (c) any member or official of the Council who deliberately or negligently made or

authorised an irregular expenditure is liable for that expenditure; and

- (d) any member or official of the Council who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.

(2) The Council must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure, unless the expenditure—

- (a) in the case of unauthorised expenditure, is—
- (i) authorised in an adjustments budget; or
  - (ii) certified by the Council, after investigation by a Council committee, as irrecoverable and written off by the Council; and
- (b) in the case of irregular or fruitless and wasteful expenditure, after investigation by a Council committee, is certified by the Council as irrecoverable and written off by the Council.

(3) If the Registrar becomes aware that a member of the Council has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the Registrar will be liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure, in the event that the Registrar fails to inform the Council member in writing that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.

(4) The Registrar must promptly inform the President of the Council and Minister in writing—

- (a) of any unauthorised, irregular or fruitless and wasteful expenditure incurred by the Council;
- (b) whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and

(c) of the steps that have been taken—

- (i) to recover or rectify such expenditure; and
- (ii) to prevent a recurrence of such expenditure.

(5) Criminal and disciplinary proceedings, as the case may be, will be instituted against a person charged with the commission of an offence relating to unauthorised, irregular or fruitless and wasteful expenditure whether or not it is written off in terms of subsection (2)(b).

(6) The Registrar must report to the South African Police Service all cases of alleged—

- (a) irregular expenditure that constitute a criminal offence; and
- (b) theft and fraud that occur in the Council.

(7) The Council must take all reasonable steps to ensure that all cases referred to in subsection (6) are reported to the South African Police Service if—

- (a) the charge is against the Registrar; or
- (b) the Registrar fails to comply with that subsection.

### **Financial year and accounting**

**35.** (1) The financial year of the Council is from 1 April in any year to 31 March of the following year.

(2) The Registrar must—

- (a) cause records of all income and expenditure to be kept in the prescribed manner;
- (b) maintain records of all its assets and liabilities; and

(c) must as soon as possible after the end of each financial year, cause statements of account and a final balance sheet to be prepared, showing the prescribed particulars in respect of that financial year.

(3) The Council must appoint a firm of external auditors to audit records, statements of account and balance sheets and to present an audit report to the Council.

(4) A copy of the external audit report referred to in subsection (3) must be submitted to the Minister within the prescribed period and must be open for inspection by the public in the prescribed manner.

## CHAPTER 5

### SOCIAL SERVICE PRACTITIONERS

#### Designation and scope of social service practitioners

**36.** (1) The Minister must, on the recommendation of the Council and by notice in the *Gazette* publish—

- (a) designations of persons rendering social services within various settings; and
- (b) define or amend the scope of practice of any social service profession or occupation.

(2) Before acting under subsection (1), the Minister must—

- (a) invite affected persons to submit written representations on the matter within a period not exceeding 30 days from the date of publication of the notice in the *Gazette* and in at least two newspapers published and circulated

nationally; and

- (b) consider any written representations within a period of 60 days from the date of the submission thereof.

### **Establishment of social service boards**

**37.** (1) The Minister must, on the recommendation of the Council and by notice in the *Gazette*, establish—

- (a) social service professional boards for designated social service professions as prescribed; and
- (b) social service occupational boards for designated social service occupations as prescribed.

(2) The Minister may, on the recommendation of the Council and after consulting the concerned social service board, by notice in the *Gazette*, dissolve or amend the concerned social service board.

(3) Before acting under subsection (2), the Minister must—

- (a) by notice in the *Gazette*—
- (i) inform affected persons of his or her intention to dissolve or amend the concerned social service board with reasons; and
- (ii) invite affected persons to submit written representations on the matter within a period not exceeding 30 days from the date of publication of the notice in the *Gazette*; and
- (b) consider any written representations within a period of 60 days from the date of the submission thereof.

### **Objects of social service boards**

- 38.** The objects of social service boards are to—
- (a) assist in the promotion of social services across the Republic;
  - (b) consult and liaise with any other social service boards or relevant public authority on matters affecting any social service profession or occupation falling under the relevant social service boards;
  - (c) provide oversight and exercise authority in respect of all matters affecting—
    - (i) the training of persons falling within the ambit of social service boards;  
and
    - (ii) the practices pursued in the social service professions and occupations falling within the ambit of the respective social service boards;
  - (d) promote liaison, in cooperation with the education and training institutions and education, training and development service providers in the field of the training contemplated in paragraph (c)(i), both within and outside the Republic and to promote the standards of such training in the Republic;
  - (e) determine the minimum standards of education and training including the continuous professional development of persons practising the social service professions or occupations falling within the ambit of the concerned social service boards;
  - (f) develop and implement approaches or strategies to promote the continuous development of the social service practitioners represented;
  - (g) promote the development of specialisation and post-graduate qualifications;
  - (h) serve as the representatives of the social service practitioners that comprise membership of the respective social service boards;



- (i) protect the interests of the public in matters pertaining to the social service practitioners represented by a social service board; and
- (j) make representations to the Council for the making, amending or withdrawal of any regulation or rule that applies or will apply to the social service boards or social service practitioners.

### **General powers of social service boards**

- 39.** (1) A social service 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 practising his or her social service profession or occupation pending the carrying out of any investigations or inquiry in terms of section 61;
  - (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 education, training and development service providers;
  - (d) consider any matter affecting any social service profession or occupation falling within the ambit of a social service board and make representations or take such action in connection therewith as the relevant social service board considers advisable;
  - (e) upon application by any person, recognise any qualification held by him or her, whether such qualification has been obtained within or outside the

Republic, as being equal, either wholly or in part, to any prescribed qualification, whereupon such person must, to the extent to which the qualification has so been recognised, be deemed to hold such prescribed qualification;

- (f) after consultation with any other social service board, establish a joint standing committee or committees of the social service boards concerned;
- (g) perform such other prescribed functions, and generally do all such things as the social service board considers necessary or expedient to achieve the objects of this Act in relation to a social service profession or occupation falling within the ambit of the concerned social service board;
- (h) take disciplinary steps against members in terms of prior agreed upon criteria and standards that emerged from a democratic and participatory process and only if institutions of redress, including external and objective institutions, for accused and accusers are in place;
- (i) maintain communication and consultative processes with members, intended service users and other relevant stakeholders;
- (j) maintain the register of social service practitioners it is representing;
- (k) advise the Council on any matter affecting any social service profession or occupation falling under a social service professional board or social service occupational board;
- (l) determine boundaries and define a scope of practice in collaboration with the Council;
- (m) after consultation with any other social service board, establish joint standing committees of the social service boards concerned;
- (n) exercise effective control over the professional conduct of social service

practitioners falling under a social service professional or social service occupational board;

- (o) protect, promote and maintain the dignity and integrity of any social service profession and occupation falling under a social service board; and
- (p) exercise any duty or perform any function conferred on the social service board by this Act and which was delegated to the social board by the Council or prescribed in terms of this Act.

(2) Any consultation with the Minister on any matters concerning a social service board must be done through the Council.

### **Appointment and composition of social service boards**

**40.** (1) Each social service board should consist of 15 members constituted as follows-

- (a) 10 elected members from the profession that the social service board represents as prescribed;
- (b) 5 members appointed by the Minister as follows:-
  - (i) one person representing the Associations (professional or occupational);
  - (ii) one person representing Quality Council Trade and Occupations;
  - (iii) one person representing the trade unions organising in the sector;
  - (iv) one person with a broad understanding of the sector education and training authority; and
  - (iv) one person who has specialised knowledge of the law in the social service sector.

(2) Members of social service boards will hold office for a period of five years from the date of their appointment by the Minister.

**Appointment of chairperson and deputy-chairperson of social service boards**

**41.** (1) At a first meeting of a newly constituted social service board, the members of the social service board must nominate, from amongst themselves, two members who are registered to practise as social service practitioners to be considered for appointment as chairperson and deputy-chairperson respectively.

(2) The Registrar must notify the Minister of the two persons nominated for appointment as chairperson and deputy-chairperson of the social service board within seven days of such nomination.

(3) The Minister must appoint the chairperson and deputy-chairperson of a social service board as nominated by such social service board.

(4) If the office of the chairperson or deputy-chairperson becomes vacant, the members of the social service board must, at the first meeting after such vacancy has occurred or soon thereafter, nominate from amongst themselves a new chairperson or deputy-chairperson, as the case may be.

(5) The Registrar must notify the Minister of the member nominated for chairperson or deputy-chairperson in terms of subsection (4) within 14 days of such nomination and the Minister must appoint the new chairperson or deputy-chairperson who will hold office for the unexpired portion of the period for which his or her predecessor was appointed.

(6) The chairperson and deputy-chairperson of the social service board—

- (a) may hold office for a period of five years;
- (b) on expiry of their term of office, are eligible for re-appointment or re-election

**CONTINUES ON PAGE 258 - PART 3**



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA

Vol. 657

27 March  
Maart 2020

No. 43145

**PART 3 OF 3**

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-5843



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as chairperson or deputy-chairperson but may not serve more than two consecutive terms of office; and

- (c) may vacate office without terminating their membership of the social service board.

(7) The Minister may terminate the term of office of the chairperson of a social service board—

- (a) if it is in the public or professional interest and for just cause;  
(b) after consulting the Council and the relevant social service board; and  
(c) after a fair hearing.

(8) If the office of the chairperson becomes vacant, the Minister may appoint the deputy-chairperson to act as chairperson until the vacancy is filled in terms of subsections (4) and (5).

(9) The Minister may terminate the term of office of the deputy-chairperson of a social service board—

- (a) if it is in the public or professional interest and for just cause;  
(b) after consulting the Council and the relevant social service board; and  
(c) after a fair hearing.

(10) If the office of the deputy-chairperson becomes vacant, the Minister may appoint a suitable person for the position of deputy-chairperson until the vacancy is filled in terms of subsections (4) and (5).

### **Meetings of social service boards**

**42.** (1) A social service board must meet four times a year at times and places determined by the chairperson of the social service board.

(2) The chairperson must convene a special meeting of the social service board within 14 days upon receipt of a written request by the Council or at least six members of the social service board.

(3) A written request for a special meeting must state clearly the purpose of the meeting.

(4) The chairperson, or in the absence of the chairperson, the deputy-chairperson presides at meetings of a social service board.

(5) If both the chairperson and deputy-chairperson are absent from a meeting of a social service board, members present at the said meeting must elect, from amongst themselves, a member to preside as a chairperson.

(6) The majority of the members of a social service board constitute a quorum for a meeting of the social service board.

(7) Members of a social service board may not absent themselves for more than three consecutive meetings of the respective social service board without the approval of the chairperson.

(8) The social service board may prescribe the proceedings for the meetings.

(9) A decision of a social service board is not invalid by reason only of a vacancy on the social service board.

(10) A decision of a social service board is invalid where a person failed to disclose his or her interest as contemplated in subsection (12) and actively participated in and influenced the decision making process.

(11) A decision of a social service board is invalid where a person who is not entitled to sit as a member of the social service board sat as a member at the time the decision was taken and actively participated in and influenced the



decision making process.

(12) A member of a social service board must not in any manner participate in the proceedings at any meeting of the social service board if, in relation to any matter before the social service board, he or she has a conflict of interest as contemplated in section 12.

### **Operating procedures of social service boards**

**43.** (1) The strategic and implementation plans of social service boards, as prescribed, must be approved by the Council.

(2) Any amendments to the strategic and implementation plans must be approved by the Council.

(3) Any deviation from the strategic and implementation plans which have financial implications, must be presented to the Council for approval within 30 days of the social service board becoming aware of the need for such deviation.

### **Vacation of office and filling of vacancies on social service boards**

**44.** (1) A member of a social service board must vacate his or her office if the member—

- (a) becomes disqualified in terms of section 45 from being appointed as a member;
- (b) has been absent from more than three consecutive meetings of the social service board without the leave of the relevant social service board, except

on good cause shown;

- (c) resigns by giving three months written notice to the President of the Council and thereafter delivers such notice to the chairperson of the relevant social service board;
- (d) in the case of an elected member of a social service board, ceases to hold a qualification required for his or her election or ceases to represent the category of persons who elected him or her to the social service board;
- (e) is declared by a competent court to be of unsound mind, or to have a mental disorder, or is detained in terms of the Mental Health Care Act; or
- (f) is removed from office by the Minister—
  - (i) in the public or professional interest and for just cause;
  - (ii) after consulting the social service board; and
  - (iii) after a fair hearing.

(2) The Registrar must report every vacancy that arises as contemplated in subsection (1) to the Minister and the Council within three days of a vacancy coming to the attention of the Registrar.

(3) Every vacancy on a social service board arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member must be filled in the same manner in which that member was elected and appointed and every member so elected and appointed holds office for the unexpired portion of the period for which his or her predecessor was appointed.

(4) Where a vacancy arises from the circumstances referred to in subsection (1), the Minister may, if necessary, appoint a qualified person to act in the vacant post until the process contemplated in subsection (3) is completed.

(5) The acting appointment contemplated in subsection (4) may

not exceed a period of nine months.

### **Disqualification from membership of social service boards**

**45.** (1) A person may not be appointed as a member of a social service board if that person—

- (a) is not a citizen of the Republic, and is not resident in the Republic;
- (b) is an unrehabilitated insolvent;
- (c) is disqualified under any law from practising that person's profession or occupation;
- (d) is of unsound mind as declared by a competent court;
- (e) has been convicted of an offence in the Republic and sentenced to imprisonment without the option of a fine, or in the case of fraud, or any other offence involving dishonesty or any sexual offence, to a fine or imprisonment or both;
- (f) subject to subsection (2), has been convicted of an offence in a foreign country and sentenced to imprisonment without the option of a fine, or in the case of fraud, or any other offence involving dishonesty or a sexual offence, to a fine or imprisonment or both;
- (g) has at any time been removed from an office of trust on account of a breach of fiduciary duty;
- (h) has been found guilty of unprofessional and unethical conduct in terms of this Act;
- (i) has a direct or indirect financial interest in any matter concerning the social service board; or

- (j) is found to be unsuitable to work with children, older persons and people with disabilities by a competent court and whose details appear on the—
- (i) national child protection register as contemplated in the Children’s Act, 2005 (Act No. 38 of 2005);
  - (ii) national register for sex offenders as contemplated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007); or
  - (iii) register of persons convicted of abuse of older persons or any crime or offence related to the abuse of older persons as contemplated in section 31 of the Older Persons Act, 2006 (Act No.13 of 2006).
- (2) An offence contemplated in subsection (1)(f) must constitute an offence under South African law.

### **Discipline and removal of members from social service boards**

**46.** (1) Disciplinary action can be taken against any member of a social service board who—

- (a) contravenes the provisions of this Act or a regulation or directive made thereunder or a code of conduct; or
- (b) demonstrates inability to perform his or her duties efficiently.

(2) The President of the Council, as delegated by the Minister, must immediately take appropriate disciplinary steps against the chairperson of a social service board if he or she does not comply with the provisions of this Act or a regulation or directive made thereunder.

- (3) The chairperson of a social service board must—

- (a) immediately take appropriate disciplinary steps against the deputy-chairperson or a member of the social service board, as the case may be, if he or she does not comply with the provisions of this Act or a regulation or directive made thereunder;
- (b) immediately report to the President of the Council the particulars of such non-compliance; and
- (c) as soon as possible, report to the President of the Council the particulars of the disciplinary steps taken.

(4) If a member of a social service board has been found guilty in terms of subsection 1(a) or (b), the chairperson of the social service board must recommend the appropriate sanctions to the President of the Council, taking into consideration the gravity of the breach of conduct.

## CHAPTER 6

### REGISTRATION OF SOCIAL SERVICE PRACTITIONERS

#### Categories of registration

47. (1) The categories in which a person must register within a social service profession are—

- (a) social worker;
- (b) social worker within approved specialisation area;
- (c) student social worker;
- (d) auxiliary social worker;
- (e) student auxiliary social worker;

- (f) child and youth care worker;
- (g) student child and youth care worker;
- (h) child and youth worker auxiliary level; and
- (i) any other category designated in terms of subsection (3).

(2) The categories in which a person must register in a social service occupation are—

- (a) early childhood development practitioner;
- (b) community development practitioner;
- (c) assistant community development practitioner;
- (d) caregiver; and
- (e) any other category designated in terms of subsection (3).

(3) The Minister may, on the recommendation of the Council and by notice in the *Gazette*, designate additional categories in which persons may register in a social service profession or a social service occupation.

(4) A person may practise in a category contemplated in subsections (1), (2) or (3) only if he or she is registered in that category.

(5) Every newly qualified social service practitioner who is registered in terms of this Act must undergo supervision as prescribed.

(6) Every newly qualified social service practitioner contemplating registration in terms of subsections (1) and (2) must undergo an employment readiness programme for a period not exceeding six months as prescribed.

### **Scope of practice**

- 48.** (1) The Minister must by notice in the *Gazette*—

- (a) inform affected persons on the intention to review or introduce a scope of practice; and
- (b) invite affected persons to submit written representations on the matter within a period not exceeding 21 days from the date of publication of the notice in the *Gazette*.

(2) The Minister must consider any written representations within a period of 21 days from the date of the submission thereof.

(3) After such consideration and on recommendation of the Council, the Minister must publish in the *Gazette* the scope of practice which must only be performed by persons registered in the category.

### **Compliance with registration**

- 49.** (1) A person who is not registered with the Council may not—
- (a) for gain, directly or indirectly, in any manner whatsoever, practise the profession or occupation in respect of which social service boards have been established;
  - (b) conduct any training, including in higher learning institutions, related to a social service profession or occupation unless he or she is a registered social service practitioner in that field; or
  - (c) in any manner falsely represent himself or herself to be a social service practitioner.

(2) A student or a learner must be registered with the Council before undertaking any social service practical work required to complete the qualification.

(3) A student or a learner, as contemplated in subsection (2), must be placed under the supervision of a registered social service practitioner.

(4) Supervision must be done in line with the norms and standards of the Council and the supervision framework.

### **Social service professional and occupational registers**

**50.** (1) The Council, after consulting the social service boards, must prescribe the—

- (a) registers to be kept;
- (b) form of registers and the maintenance of registers;
- (c) manner in which alterations to registers may be effected; and
- (d) form of certificates of registration and the issuing of certificates of registration.

(2) Access to information to registers can be obtained by following the procedure as outlined in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), subject to the Protection of Personal Information Act, 2013 (Act No. 4 of 2013).

(3) The Registrar is responsible for keeping and maintaining the social service professional and occupational registers of the Council.

(4) The Registrar must keep separate registers in the Council's office in respect of the different social service professions, social service occupations and other categories of registration.

(5) The Registrar must record in the appropriate register the particulars in the prescribed manner in respect of every social service profession,



social service occupation and other category of registration.

(6) A social service practitioner may make representations to the Registrar to rectify any incorrect entry with regards to his or her information in a register and the Registrar must record any such rectification in the register concerned.

(7) An extract from a register as contemplated in subsection (2), signed by the Registrar, may be submitted as admissible evidence in any proceedings unless provided otherwise.

(8) Where a person is not registered with the Council, the Registrar may, upon request, depose to an affidavit confirming that such person is not registered with the Council.

(9) Any person registered with the Council may—

- (a) practise as a social service practitioner in the category in respect of which he or she is registered; and
- (b) use such title, description or symbol prescribed by the Council for the registration category concerned.

(10) A person who is a registered social service practitioner must in the practise of his or her social service profession or occupation, state only those qualifications and specialisation areas that have been registered with the Council.

### **Application for registration**

51. (1) A person who applies for registration as a social service practitioner must do so in the prescribed form and manner.

(2) An application for registration in terms of subsection (1) must

be accompanied by—

- (a) the prescribed application form;
- (b) proof of payment of the prescribed registration fee;
- (c) a certified copy of the qualifications in respect of the registration category concerned and a letter of recommendation from the education and training institution concerned;
- (d) a certified copy of the applicant's identity document or passport;
- (e) proof of residence not older than three months or a letter from the Department of Home Affairs confirming residential status;
- (f) police clearance; and
- (g) any further documents and information as may be prescribed.

(3) For the purpose of considering any application contemplated in subsection (1), the Council may require the applicant to furnish further proof in support of the application regarding the applicant's identity, good character, education and training, qualifications and experience.

(4) The Council must approve an application for registration within 30 days of receipt of all documents as contemplated in subsection (2), provided that the applicant is not disqualified in terms of section 52.

(5) If the Council approves an application, the Registrar must within 30 days—

- (a) register the applicant by entering the prescribed particulars in the appropriate register; and
- (b) issue a certificate of registration to the applicant in the prescribed form.

(6) A residential or postal address furnished to the Registrar in terms of subsection (2)(e), or any change thereto as contemplated in subsection

(7), serves as the registered address for service upon such person of any notice, documents and process in terms of this Act.

(7) A social service practitioner must notify the Registrar in writing of any change to his or her personal particulars and registered residential or postal address within 30 days of such change.

(8) The Council may approve the registration of a person who satisfies the prescribed requirements and conditions, subject to—

- (a) that person being fit and proper to practise the profession;
- (b) the completion of conditional registration with an education and training institution;
- (c) the successful completion of the assessment of recognition of prior learning or the submission of the portfolio of evidence; and
- (d) evidence of prescribed continuous professional development.

### **Disqualification from registration**

**52.** (1) The Council may refuse an application for registration if the applicant—

- (a) does not satisfy the requirements of this Act or the prescribed requirements;
- (b) has been removed from an office of trust on account of breach of fiduciary duty;
- (c) has been convicted of an offence in the Republic, and sentenced to imprisonment without the option of a fine, or in the case of fraud, or any other offence involving dishonesty, or any sexual offence, to a fine or imprisonment or both;

- (d) is a person whose name appears on the register contemplated in—
- (i) section 31 of the Older Persons Act, 2006 (Act No. 13 of 2006) which refers to the register of abuse of older persons; or
  - (ii) section 111 of the Children’s Act, 2005 (Act No. 38 of 2005) which in part B refers to the national child protection register; or
  - (iii) chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) which refers to the national register for sex offenders;
- (e) subject to subsection (4), has been convicted of an offence in a foreign country and sentenced to imprisonment without the option of a fine, or in the case of fraud, or any other offence involving dishonesty or any sexual offence, to a fine or imprisonment or both;
- (f) is disqualified from registration as a result of any disciplinary sanction imposed under this Act; and
- (g) is an unrehabilitated insolvent.

(2) An unrehabilitated insolvent must declare such status upon application for registration for consideration by the Council.

(3) The Council must investigate and hold an inquiry, whenever it is reported that a person registered under this Act—

- (a) has become mentally or physically challenged to such an extent that it would be contrary to the professional or public interest to allow him or her to continue to practise;
- (b) has become unfit to acquire, keep, use, administer or possess any scheduled substance; and
- (c) has become addicted to the use of any substance that adversely affects

professional practise and conduct.

(4) An offence contemplated in subsection (1)(e) must constitute an offence under South African law.

(5) The Council must, within 30 days, provide any person whose application for registration has been refused in terms of subsection (1) with written reasons for refusing the application.

### **Removal of name from register**

**53.** (1) The Council may cancel a social service practitioner's registration and instruct the Registrar to remove the name of any person from the register concerned if the person—

- (a) has died;
- (b) has in the prescribed manner, requested the removal of his or her name from the register and no disciplinary steps in terms of this Act are pending or contemplated, or are likely to be instituted, against that person;
- (c) has been found guilty of unprofessional or unethical conduct and a penalty contemplated in section 67(1) is imposed on such person including any grounds for disqualification contemplated in section 52;
- (d) has left the Republic permanently or has been absent from the Republic for a continuous period of more than three years without the prescribed notice to the Council;
- (e) has failed to pay prescribed fees owed to the Council within three months of the date upon which it became payable;
- (f) has failed to furnish a residential address or postal address in accordance

with the written request of the Registrar;

- (g) is declared by a competent court to be of unsound mind, or to have a mental disorder, or is detained in terms of the Mental Health Care Act;
- (h) has been registered in error or fraudulently; or
- (i) has not met the requirements prescribed by the Council policy regarding continuing professional development.

(2) Before cancelling a registration as contemplated in subsections (1)(c) to (i), the Registrar must—

- (a) give notice in writing to the person of the Council's intention to cancel his or her registration and the reasons on which it is based;
- (b) afford the person a period of 30 days from the date of receipt of the notice contemplated in paragraph (a) to submit written representations against the Council's intention to cancel the social service practitioner's registration; and
- (c) consider any written representations within a period of 30 days from the date of the submission thereof.

(3) Notice of the intention to remove a person's name from the register in terms of subsection (1)(c) to (i), as well as the notice of the removal of the person's name, must be given by the Registrar to the person concerned by registered post, electronic mail, courier services, or to the person's registered address.

(4) A person whose name has been removed from the register after the Registrar has considered the written representations contemplated in subsection (2)(b), may apply in a prescribed manner for restoration of his or her name to the register.

(5) The application for the restoration of a name to a register must

be accompanied by a written representation that the reasons for removal from the register no longer apply.

(6) The Council may on application made in the prescribed manner by that person, and after payment of the prescribed fee, consider the application and order that the Registrar restore the person's name to the register.

(7) The fact that a person's registration has been cancelled and his or her name has been removed from a register, does not prevent a social service board from instituting criminal or civil proceedings against that person for unprofessional or unethical conduct committed prior to the cancellation or removal.

### **Renewal or restoration of registration**

**54.** (1) Registration to practise is renewed upon payment of the prescribed annual fees to the Council.

(2) The Council must prescribe requirements and conditions for the renewal of registration.

(3) The Council must, on receipt of application, restore to the register any person whose registration was cancelled in terms of section 53(1)(e) if that person has paid—

- (a) the prescribed fee;
- (b) any outstanding annual fee or portion thereof;
- (c) any expenses incurred by the Council in connection with the recovery of any arrear fees; and
- (d) any penalties imposed by the Council.

## Registration of additional qualifications and specialisations

- 55.** (1) The Council may prescribe—
- (a) the degrees, diplomas, certificates and other qualifications which may be registered as additional qualifications by social service practitioners;
  - (b) the proficiency which may be registered as specialisation by social service practitioners; and
  - (c) an assessment of a social service practitioner for recognition of prior learning.
- (2) A person who wishes to register a degree, diploma, certificate or other qualification in addition to a prescribed qualification, or a specialisation, must apply to the Council in the prescribed form and manner.
- (3) An application in terms of subsection (2) must be accompanied by—
- (a) the prescribed fee; and
  - (b) documentary proof of the additional qualification in question as the Council may require, or documentary proof that the applicant complies with the prescribed requirements for a specialisation.
- (4) The Council may approve an application for registration within 30 days of receipt.
- (5) The Council may instruct the Registrar to enter the degree, diploma, certificate or other qualification, or the specialisation, in the register against the name of the applicant, if the Council is satisfied that—
- (a) the additional qualification is a degree, diploma, certificate or other qualification prescribed in terms of subsection (1); or



(b) the specialisation has been prescribed in terms of subsection (1) and the applicant complies with the prescribed requirements.

(6) The Registrar must enter the degree, diploma, certificate or other qualification, or the specialisation in the register against the name of the applicant within 30 days of the Council's approval of the application.

(7) The Council may, within 30 days of receipt of the application, require an applicant who does not comply with the prescribed requirements to complete a prescribed assessment on a date and at a place and before assessors appointed by the Council, for the purpose of determining whether his or her professional knowledge and skills are adequate to practise the specialisation concerned.

(8) The Council may prescribe the fees payable by an applicant in respect of a prescribed assessment.

(9) If the applicant passes the prescribed assessment to the satisfaction of the Council, the Council must instruct the Registrar to enter the specialisation in the register against the name of that person within two days from the request being made.

(10) The Council may cancel any specialisation registered in terms of this section, and may instruct the Registrar to remove it from a register within 30 days, if the social service practitioner concerned ceases to comply with any prescribed requirement for the registration of the specialisation.

(11) Before acting in terms of subsection (10), the Council must—

(a) give notice in writing to the person at their registered address of its intention to cancel the registered specialisation and the reasons on which it is based;

(b) afford the person a period of 30 days from the date of receipt of the notice

contemplated in paragraph (a) to submit written representations against the Council's intention to cancel the person's registered specialisation; and

(c) consider any written representations within a period of 30 days from the date of the submission thereof.

(12) The Council may instruct the Registrar to remove from a register, any specialisation registered in terms of this section if the social service practitioner concerned has lodged a written application for the removal of the specialisation.

(13) The Council may instruct the Registrar to restore any specialisation removed in terms of subsection (10) if the social service practitioner—

- (a) applies in the prescribed form and manner for restoration;
- (b) pays any fees prescribed in respect of such restoration; and
- (c) complies with any other requirements as the Council may determine.

### **Continuing professional development**

**56.** (1) All employers must ensure continued professional development and monitor progress of the social service practitioners in this regard.

- (2) The Council must make rules prescribing—
- (a) conditions relating to continuing professional development to be undergone by social service practitioners in order to retain or renew their registration;
  - (b) the nature and extent of continuing professional development to be undergone by social service practitioners; and
  - (c) the criteria for recognition of continuing professional development

programmes by education and training institutions and education, training and development service providers offering such programmes.

### **Registration of international qualifications**

57. (1) Where the applicant for registration wants his or her qualification to be recognised in South Africa against the national qualification framework, he or she has a responsibility to contact SAQA for verification of that qualification.

(2) A qualification obtained from an education and training institution situated outside the Republic must not be registered in terms of this Act, unless—

- (a) the qualification conforms to the equivalent national qualifications framework level as determined by the relevant qualifications authority; and
- (b) the Council is satisfied that the qualification meets the standard of professional education, training and development not lower than that prescribed in respect of the education, training and development of a person or persons practising as social service practitioners within the Republic.

(3) For purposes of subsection (1), the Council may require a person who holds an international qualification and who applies for registration as a social service practitioner to fulfil the requirements as prescribed.

(4) The Council may prescribe the fees payable by an applicant in respect of the prescribed assessment.

### Appeals against registration decisions

**58.** (1) Any person aggrieved by a decision of the Council concerning registration may, within 90 days of receiving notice thereof, appeal that decision to the appeals committee in terms of section 71.

(2) The decisions of the Council which may be appealed in terms of subsection (1) includes, amongst others, a—

- (a) refusal to register an applicant in terms of section 52(1);
- (b) cancellation of registration in terms of section 53(1);
- (c) refusal to restore registration in terms of section 54(3);
- (d) refusal to renew registration in terms of section 54;
- (e) decision in terms of this Act to—
  - (i) refuse to register an additional qualification or specialisation;
  - (ii) cancel a registered additional qualification or specialisation; and
  - (iii) refuse to restore an additional qualification or specialisation; and
- (f) refusal to register an international qualification in terms of section 57.

## CHAPTER 7

### DISCIPLINARY POWERS AND PROCEDURES

#### Professional and ethical conduct

**59.** (1) The Council must, after consultation with the social service boards, develop and issue codes for professional and ethical conduct for the

purpose of regulating the professional and ethical conduct of social service practitioners.

(2) Social service practitioners must comply with professional and ethical codes of conduct issued by the Council in terms of subsection (1).

(3) The Council and social service boards must—

(a) promote the required standards of professional and ethical conduct within the social service sector amongst the relevant stakeholders; and

(b) ensure that any codes of conduct issued in terms of subsection (1) are available to relevant stakeholders.

### **Complaints of unprofessional or unethical conduct**

60. (1) A social service board must inquire into any complaint or allegation of unprofessional or unethical conduct against a social service practitioner falling within its jurisdiction.

(2) A social service board may institute an inquiry into any alleged unprofessional or unethical conduct that comes to the attention of the social service board.

(3) If a social service practitioner has been convicted before a court of law of any crime associated with unprofessional or unethical conduct, it is incumbent on the social service practitioner to notify the Council.

(4) If, in the course of any disciplinary proceedings against a social service practitioner by his or her employer, it appears to the employer that there is *prima facie* evidence of unprofessional or unethical conduct on the part of the social service practitioner, the employer must forthwith send a report regarding that

conduct to the relevant social service board.

(5) An education and training institution must inquire into any complaint or allegation of unprofessional or unethical conduct against a student who undertakes social service practical work and is registered with the Council in terms of section 49.

(6) If, in the course of any disciplinary proceedings against a student by his or her education and training institution, it appears that there is *prima facie* evidence of unprofessional or unethical conduct on the part of the student, the education and training institution must forthwith send a report regarding that conduct to the Council.

### **Investigation of unprofessional or unethical conduct**

**61.** (1) The Registrar must appoint the screening committee comprised as follows—

- (a) the professional conduct manager;
- (b) a person qualified in law;
- (c) a member of the social service board concerned;
- (d) a person representing the community in the social service board; and
- (e) a member co-opted from the social service sector as determined by the merits of the case.

(2) The screening committee must—

- (a) screen any written complaint or allegation of unprofessional or unethical conduct received against a registered social service practitioner; and
- (b) advise the preliminary inquiry committee of the merits of the alleged

unprofessional or unethical conduct.

(3) The Council must appoint the chairperson of the preliminary inquiry committee as prescribed.

(4) The preliminary inquiry committee comprises not more than three members of whom at least one member is a member of the Council, and the other members are from the social service board concerned.

(5) The preliminary inquiry committee will further investigate, as prescribed, the merits of any case referred from the screening committee investigating unprofessional or unethical conduct and will refer the case to the disciplinary committee if applicable.

(6) The preliminary inquiry committee must, upon inviting the social service practitioner concerned, inform him or her that—

- (a) he or she is not obliged to make any statement;
- (b) that any statement made by him or her may be used in the disciplinary hearing, and
- (c) he or she is not entitled to legal representation.

(7) The preliminary inquiry committee must, after concluding the investigation, submit its report and recommendations to the relevant social service board.

(8) A Council member, or social service board member, having served on the preliminary inquiry committee may not serve on the disciplinary committee.

### **Appointment of disciplinary committee**

**62.** (1) A social service board must appoint a disciplinary committee of not less than four persons to hear any charge of unprofessional or unethical conduct against a social service practitioner.

(2) The disciplinary committee must consist of—

- (a) a person who specialises and has experience in the social service professional or occupational field of the person charged;
- (b) a representative nominated by the Council;
- (c) a person qualified in law and who has appropriate experience; and
- (d) the Registrar.

(3) The disciplinary committee appoints a chairperson from amongst the persons referred to in subsection (2).

(4) The Registrar must appoint an officer to lead evidence.

(5) The officer leading evidence in the proceedings must read the charges and lead the evidence during the disciplinary hearing.

### **Charge of unprofessional or unethical conduct**

**63.** (1) The disciplinary committee must consider the report of the preliminary inquiry committee and institute the prescribed procedures.

(2) The Registrar must furnish a charge sheet to the concerned social service practitioner by hand, registered mail, electronic mail or courier services to that person's registered address.

(3) The charge sheet must inform the social service practitioner—

- (a) of the details and nature of the charge;
- (b) that he or she must, within 30 days of receiving the charge sheet, respond to



the charges in writing; and

- (c) that he or she may submit a further written explanation regarding the charge as contemplated in paragraph (b).

(4) If the social service practitioner admits guilt to the charge, the disciplinary committee may—

- (a) find the social service practitioner guilty of unprofessional or unethical conduct as charged; and
- (b) after allowing the social service practitioner an opportunity to make representations in mitigation of sentence, impose a disciplinary sanction as contemplated in section 67.

(5) Unless the social service practitioner admits guilt to the charge as contemplated in subsection (4), the disciplinary committee must, on expiry of the period referred to in subsection (3)(b), institute a formal hearing as contemplated in section 65.

### **Pre-disciplinary hearings**

**64.** (1) The officer leading evidence may invite the social service practitioner to a pre-disciplinary hearing conference.

(2) The invitation contemplated in subsection (1) must be given to the social service practitioner at least five days prior to the envisaged date of the pre-disciplinary hearing.

(3) The social service practitioner charged may be assisted or represented by another person, including a legal representative.

(4) Should the matter be resolved at this stage, the officer leading

evidence must inform the disciplinary committee of the outcome.

(5) The disciplinary committee then makes a pronouncement on the resolution by the parties to the relevant social service board.

(6) Where the matter cannot be resolved, the disciplinary committee must proceed with instituting a disciplinary hearing.

### **Disciplinary hearings**

**65.** (1) At a disciplinary hearing, a chairperson of the disciplinary committee may call upon and administer an oath to, or take an affirmation from, any witness at the disciplinary hearing.

(2) The social service practitioner charged—

- (a) may be assisted or represented by another person, including a legal representative;
- (b) may be assisted by an interpreter where necessary;
- (c) has the right to be heard;
- (d) may call witnesses;
- (e) may question any person called as a witness in support of the charge;
- (f) may have access to any books, documents or objects produced in evidence; and
- (g) may admit at any time before the conclusion of the disciplinary hearing that he or she is guilty of the charge despite the fact that he or she denied the charge or failed to respond in terms of section 63(3)(b).

(3) The chairperson appointed in terms of section 62(3) must—

- (a) act as the presiding officer of the proceedings;

- (b) ensure that the proceedings are conducted in a fair and procedural manner;
- (c) be impartial and objective at all times; and
- (d) make a ruling on the objection made by the officer leading evidence or the defence.

### **Summoning of witnesses**

**66.** (1) The Registrar may, for the purposes of a disciplinary hearing, summons any person to appear before a disciplinary committee, at a time and place specified in the summons, and to be questioned or to produce a book, document or object, if the disciplinary committee believes that—

- (a) such person may be able to give material information concerning the subject of the hearing; or
- (b) such person has possession or custody of or has under his or her control any book, document, file or object which has any bearing on the subject of the hearing.

(2) Failure to comply with subsection (1) will be regarded as unprofessional or unethical conduct which may result in disciplinary action.

(3) A summons issued in terms of subsection (1), must—

- (a) be in the prescribed form;
- (b) be signed by the Registrar or, in his or her absence, a member of the disciplinary committee; and
- (c) be served upon the person concerned personally or by sending it in the prescribed manner.

(4) A witness who has been summonsed in terms of subsection

(1) must remain in attendance until excused by the chairperson of the disciplinary committee from further attendance.

(5) The law relating to privilege, as applicable to a witness summonsed to give evidence or to produce a book, document, file or object in a civil trial before a court of law, equally applies to a witness called to appear before a disciplinary committee.

(6) The disciplinary committee may retain any book, document or object produced in terms of subsection (1) for the duration of the disciplinary hearing.

### **Disciplinary sanctions and powers of disciplinary committee**

**67.** (1) A social service practitioner who has been found guilty of unprofessional or unethical conduct in terms of this Act, is liable to one or more of the following disciplinary sanctions depending on the gravity of each case—

- (a) a reprimand or a caution;
- (b) the suspension of his or her registration for a period and on the conditions determined by the disciplinary committee;
- (c) a fine not exceeding R10 000;
- (d) a compulsory period of supervised service determined by the disciplinary committee;
- (e) the payment of costs in respect of the disciplinary proceedings as determined by the disciplinary committee;
- (f) the payment of restitution to the complainant as determined by the disciplinary committee; or

(g) the cancellation of his or her registration.

(2) The disciplinary committee may—

(a) postpone the imposition of a disciplinary sanction for a period of two years and on conditions as it may determine;

(b) order that the execution of any disciplinary sanction referred to in subsections (1)(c) or (d) be suspended for a period and on conditions as it may determine; or

(c) impose the disciplinary sanction it considers appropriate, taking into account considerations of progressive and restorative discipline, the working conditions of the social service practitioner concerned and the protection of the interests of the public.

(3) If any social service practitioner fails to comply with any of the conditions imposed upon him or her in terms of subsection (2), and the disciplinary committee is satisfied that the non-compliance was not due to circumstances beyond that person's control, the disciplinary committee may impose any of the disciplinary sanctions referred to in subsection (1) as if the imposition of the penalty had never been postponed.

(4) If the execution of a disciplinary sanction has been suspended in terms of subsection (2)(b) and—

(a) the disciplinary committee is satisfied that the concerned social service practitioner complied with all the relevant conditions throughout the period of suspension, the disciplinary committee must inform the social service practitioner that the disciplinary sanction will not be put into operation; or

(b) the concerned social service practitioner fails to comply with any of the conditions of suspension, the disciplinary committee must put the imposed

disciplinary sanction into operation, unless that person satisfies the disciplinary committee that the non-compliance was due to circumstances beyond his or her control.

(5) Subject to this Act, the Registrar must—

- (a) remove from the register concerned the name of any social service practitioner whose registration has been cancelled in terms of subsection (1)(g);
- (b) record in the register concerned the particulars of any disciplinary sanctions imposed on a social service practitioner in terms of this Chapter; and
- (c) issue the prescribed notices in respect of any person found guilty of unprofessional or unethical conduct under this Act.

(6) Until a period of suspension imposed in terms of subsection (1)(b) has expired, such person is—

- (a) deemed not to be registered; and
- (b) disqualified from practising as a social service practitioner.

(7) The disciplinary committee may, at any time before the expiration of the period for which any registration has been suspended under this Act, on application in the prescribed manner, for sound reasons and on such conditions as the disciplinary committee may think fit, terminate the suspension.

(8) Subject to this Act, the Council may, after the expiration of the period in each case determine and again register a person whose registration has been cancelled in terms of subsection (1)(g).

(9) A fine imposed under this section must be paid by the social service practitioner to the Council within 14 days of receiving notice of the imposition thereof unless an appeal is lodged.

(10) A fine imposed on a social service practitioner by a disciplinary committee in terms of this section has the effect of and may be enforced as a civil judgement in the magistrate's court of the district in which the social service practitioner resides or is employed.

### **Admission of guilt fines**

**68.** (1) If the disciplinary committee is, on reasonable grounds, of the view that after an inquiry, a person registered under this Act may be found guilty of a prescribed category of unprofessional or unethical conduct and in respect thereof would be liable to a fine not exceeding a prescribed amount, the disciplinary committee may issue a summons to that person in the prescribed form stating that the person may—

- (a) admit that he or she is guilty of such conduct; and
- (b) pay the fine, not exceeding the prescribed amount, specified in the summons, without having to appear before a disciplinary committee.

(2) A person who receives a summons in terms of subsection (1) may, without appearing at a disciplinary hearing in terms of section 65, admit that he or she is guilty of the conduct by paying the specified fine to the Council on or before the date specified in the summons.

### **Proceedings after disciplinary hearing**

**69.** (1) The disciplinary committee must, within 30 days of the conclusion of the disciplinary hearing—

- (a) decide whether or not the social service practitioner is guilty of unprofessional or unethical conduct as charged; and
- (b) notify the social service practitioner and the relevant social service board of its decision.

(2) If the disciplinary committee decides that the social service practitioner is guilty of unprofessional or unethical conduct, it must allow—

- (a) the social service practitioner to call witnesses to give evidence on his or her behalf and to address the disciplinary committee in mitigation of sentence; and
- (b) the officer leading evidence to lead evidence and address the disciplinary committee on any aggravating circumstances.

(3) The disciplinary committee may, after taking into account any aggravating or mitigating circumstances, sanction the social service practitioner to one or more of the disciplinary sanctions contemplated in section 67.

(4) The disciplinary committee must inform the social service practitioner of his or her right of appeal in terms of section 70.

(5) The Council must keep records of any disciplinary finding that a social service practitioner is guilty of unprofessional or unethical conduct as contemplated in subsection (1)(a) and any disciplinary sanction imposed in terms of subsection (3).

### **Appeals against disciplinary decisions**

**70.** (1) A social service practitioner aggrieved by a decision of a disciplinary committee referred to in subsection (2) may, within 90 days of receiving



notice thereof, appeal that decision to the appeals committee established in terms of section 71.

- (2) The decisions which may be appealed in terms of subsection (1) are any decisions by a disciplinary committee—
- (a) that a social service practitioner is guilty of unprofessional or unethical conduct; or
  - (b) to impose a disciplinary sanction as set out in section 67.

### **Appeals committee and appeals procedure**

71. (1) The Minister must appoint an appeals committee to hear and determine appeals against disciplinary decisions.

- (2) The appeals committee must consist of—
- (a) a legal practitioner of not less than five years' experience, who is the chairperson; and
  - (b) two persons of senior standing in the social service profession or occupation concerned who have no direct interest in the affairs of the appellant and who are not members of the Council or the social service board concerned.

(3) An appellant may in person or through a legal representative appear before the appeals committee or submit written statements or arguments in support of the appeal.

(4) The procedure to be followed in connection with the noting and prosecution of an appeal in terms of this section is as prescribed by the Minister.

(5) The appeals committee may confirm or set aside the decision which is the subject of the appeal, and may, if it is set aside, give such decision as

in its opinion ought to have been given and may direct the Council, a social service board and the Registrar to do everything necessary to give effect to its decision.

(6) Subject to subsection (9), the decision of the appeals committee is final.

(7) The commencement of any decision contemplated in subsection (1) is postponed by the lodging of a notice of an appeal to the date on which the appeal is withdrawn by the aggrieved person or disposed of by the appeals committee.

(8) Any member of the appeals committee, who is not in the full-time employment of the State, may be paid such remuneration and allowances as the Minister may from time to time determine with the concurrence of the Minister of Finance.

(9) The appellant will have a right to take any decision taken by the appeals committee on review to the High Court.

(10) Before the appellant brings his or her matter on review, he or she must first exhaust all internal remedies in terms of this Act.

## CHAPTER 8

### GENERAL PROVISIONS

#### Community service

**72.** (1) The Minister may, on the recommendation of the Council and by notice in the *Gazette*, declare that graduates registering for the first time in a category of a social service profession or occupation contemplated in section 47(1)

and (2), must perform remunerated community service for two years.

(2) The notice contemplated in subsection (1) must include—

- (a) the persons who must perform community service as prescribed;
- (b) the period of community service;
- (c) the places at which community service must be performed;
- (d) the remuneration and other conditions of employment of persons performing community service;
- (e) the years of experience required of a supervisor; and
- (f) requirements to attend the compulsory job readiness induction programme.

(3) The Registrar must open a separate register for the registration of persons performing community service and ensure proper placements and supervision of the graduates.

### **Offences and penalties**

**73.** (1) A person may not—

- (a) practise as a social service practitioner unless that person is registered to practise in the relevant category contemplated in section 47 of this Act;
- (b) practise as a social service practitioner unless that person met the required continuous professional development points prescribed by the Council;
- (c) obstruct, hinder or interfere with a social service practitioner in the performance of his or her official duties or functions in terms of any law;
- (d) perform any type of work identified by the Minister in terms of section 48 of this Act, unless that person is registered as a social service practitioner within that category of practice;

- (e) teach, educate, supervise or train persons enrolled at an education and training institution in an education and training programme that leads to the acquisition of a prescribed qualification, unless he or she—
- (i) has been registered in terms of this Act; or
  - (ii) has obtained the prior written approval of the relevant social service board in the prescribed manner; or
- (f) provide the practical training required for the acquisition of a prescribed qualification, unless he or she—
- (i) has been registered in terms of this Act; or
  - (ii) has obtained the prior written approval of the relevant social service board in the prescribed manner;
- (2) A person who is not registered in terms of this Act may not—
- (a) purport to be, or in any manner allow himself or herself to be regarded as, a social service practitioner;
  - (b) perform any act indicating or calculated to lead persons to believe that he or she is a person registered in terms of this Act; or
  - (c) use the title or description of a social service practitioner or a description prescribed by the Council.

(3) A person registered under this Act may not take up, use or publish in any manner whatsoever any name, title, description or symbol indicating or calculated to lead persons to infer that that person possesses an additional qualification contemplated in section 55 if that qualification has not been entered in the appropriate register against that person's name.

(4) A person registered under this Act may not practise as a specialist or may not purport to be a specialist, or may not in any other manner

present himself or herself to be a person in respect of whom a specialisation has been registered.

(5) A person registered under this Act may not, having been summoned in terms of section 66—

- (a) without sufficient cause, fail to attend the disciplinary hearing at the time and place specified in the summons;
- (b) refuse to be sworn in or to be affirmed as a witness;
- (c) without sufficient cause, fail to answer fully and satisfactorily to the best of his or her knowledge all questions lawfully put to him or her; or
- (d) fail to produce any book, document or object in his or her possession or custody or under his or her control which he or she has been required to produce.

(6) A person registered under this Act may not, having been duly sworn in or having made an affirmation as a witness at a disciplinary hearing—

- (a) give a false answer to any question lawfully put to that person; or
- (b) make a false statement on any matter, knowing the statement to be false.

(7) A person registered under this Act may not prevent any other person from complying with a summons or from giving evidence or producing a book, document or object which he or she is, in terms of section 66, required to give or produce.

(8) A person registered under this Act may not wilfully hinder or interfere with any member of a disciplinary committee in the exercise of any power conferred upon that person in terms of Chapter 7.

(9) A person who contravenes or fails to comply with subsections (1) to (8), is guilty of an offence and on conviction is liable to a fine in accordance

with the Adjustment of Fines Act, 1991 (Act No. 101 of 1991) or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

### **Delegation of powers and functions**

**74.** (1) The Council may, in writing and subject to such conditions as the Council may determine, delegate any of its powers and functions to a social service board, the Registrar, a committee of the Council or any other competent person.

(2) A social service board may, in writing and subject to such conditions as it may determine, delegate any of its powers and functions, or any delegated functions in terms of subsection (1), to a committee of the social service board or the Registrar.

(3) The Registrar may in writing, with the approval of the Council, delegate any of his or her powers and functions or any delegated functions in terms of subsection (1) to any other competent member of staff.

(4) A delegation under subsections (1), (2) or (3)—

(a) neither divests nor prevents the exercise of the powers or the performance of the functions of the Council, the social service board or the Registrar; and

(b) may be revoked by the Council, the social service board or the Registrar at any time.

(5) The Council, social service board or Registrar may at any time amend or set aside any decision made under the delegation.

(6) The Council may not delegate its power to make rules in terms of section 75.

## Rules

- 75.** (1) The Council, after consulting any affected social service boards, may make rules relating to—
- (a) the conduct of persons practising as social service practitioners;
  - (b) the conduct of social service practitioners that constitutes unprofessional or unethical conduct;
  - (c) the establishment, constitution, powers and functions of committees;
  - (d) the recognition of the qualifications or education, training and development programmes of education and training institutions and the withdrawal of such recognition;
  - (e) the criteria and procedures in terms of which persons who are not registered in terms of this Act may be granted approval to teach, educate or train persons enrolled at an education and training institution in an education and training programme that leads to the acquisition of a prescribed qualification;
  - (f) the approval of education, training and development of service providers;
  - (g) standards for education training and development and professional conduct for registration purposes;
  - (h) the criteria and promotion for recognition of prior learning;
  - (i) the fees to be paid annually to the Council by persons practising as social service practitioners, in respect of—
    - (i) the registration or re-registration of persons practising as social

- service practitioners, and of additional qualifications, specialisations and private practices;
- (ii) the restoration of a qualification, specialisation, practice and the name of a person to a register;
  - (iii) any application which may or must be made under this Act;
  - (iv) the issue of registration certificates or copies thereof;
  - (v) the provision of extracts from any register or certificate of status;
  - (vi) the setting of assessments and the issue of associated certificates;
  - (vii) any other act which may or must be performed by the Council, a social service board or by the Registrar under this Act; and
  - (viii) the submission of a portfolio of evidence;
- (j) the exemption of certain persons or categories of persons from the payment of fees;
  - (j) the accreditation and appointment of assessors and moderators, the conducting of assessments and the granting of certificates;
  - (k) any matter in respect of which the Council may or must make rules in terms of this Act; and
  - (l) any matter which the Council considers necessary or expedient for the achievement or promotion of its objects or those of a social service board.

(2) Different rules may in terms of subsection (1) be made in respect of different social service boards and different categories of registration.

## Regulations

- 76.** (1) The Minister may, on the recommendation of the Council,



make regulations regarding—

- (a) the appointment of members of the Council;
- (b) the minimum prescribed qualifications for registration as a social service practitioner;
- (c) the minimum requirements to obtain a prescribed qualification including the nature, content and duration of education and training programmes, curriculum and practical training;
- (d) the establishment of social service boards;
- (e) the constitution, functions, powers, and term of office of members of social service boards, including—
  - (i) the procedure to be followed for the election and appointment of the members of a social service board;
  - (ii) that the chairperson of a social service board must be registered to practise as a social service practitioner falling under the concerned social service board;
  - (iii) that a social service board may delegate its powers and functions to any established committees;
  - (iv) the appointment of a chairperson and deputy-chairperson by the members of a social service board and the powers and functions of the chairperson and deputy-chairperson; and
  - (v) any other matter necessary for the effective functioning of a social service board.
- (f) investigations and inquiries in terms of Chapter 7, including—
  - (i) the manner in which any complaint of alleged unprofessional and unethical conduct by a social service practitioner may be lodged with

- the Council;
- (ii) the manner in which an investigation or inquiry may be instituted and conducted;
  - (iii) the procedure to be followed at investigations and inquiries; and
  - (iv) any other matter connected with instituting or conducting investigations or inquiries;
- (g) the registration or re-registration of persons practising as social service practitioners and of additional qualifications, specialisations and private practices;
- (h) the form of any notice or summons given or served in terms of this Act;
- (i) the documents which must accompany any application in terms of this Act;
- (j) the requirements for registration within a specialisation;
- (k) the conditions subject to which any person registered in terms of this Act may practise their profession, occupation or specialisation;
- (l) remuneration of the Council, social service boards and committees of the Council in accordance with the determination made by the Minister from time to time;
- (m) the keeping, maintaining and updating by the Registrar of a register of financial interests of members of the Council and social service boards;
- (n) public access to any register kept and maintained as contemplated in section 50; and
- (o) generally, any matters that the Minister considers necessary or expedient in order to achieve the objects of this Act.

(2) Different regulations may under this section be made in respect of different social service boards and persons practising in different categories of

registration.

### **Repeal of laws**

77. The Social Service Professions Act is hereby repealed.

### **Transitional provisions**

78. (1) For purposes of this section, "Social Service Professions Council" means the South African Council for Social Service Professions established in terms of section 2 of the Social Service Professions Act.

(2) All assets, liabilities, finances, rights and obligations of the Social Service Professions Council devolve upon and vest in the Council.

(3) Any person who immediately prior to the commencement of this Act was a member of the Social Service Professions Council is deemed to have been appointed as a member of the Council in terms of this Act until a date determined by the Minister by notice in the *Gazette*.

(4) The Professional Board for Social Work and the Professional Board for Child and Youth Care or any other professional board established by the Minister in terms of the Social Services Professions Act, is deemed to have been established as a social service professional board in terms of this Act.

(5) A person who immediately prior to the commencement of this Act was a member of the Professional Board for Social Work or the Professional Board for Child and Youth Care or any other professional board established by the

Minister in terms of the Social Services Professions Act is deemed to have been appointed as a member of a social service board in terms of this Act and the social service board must be deemed to be validly constituted in terms of this Act.

(6) The Social Service Professions Council must be deemed to be validly constituted in terms of this Act until the expiry of the term of its office.

(7) A person who, immediately prior to the commencement of this Act, was registered under the Social Service Professions Act and was practising a profession in respect of which a professional board was established under the Social Service Professions Act, is deemed to be a social service practitioner in terms of this Act.

(8) An application for registration under the Social Service Professions Act which is pending upon the commencement of this Act, must be dealt with as if the Social Service Professions Act had not been repealed.

(9) A professional conduct or appeal process under the Social Service Professions Act which is pending upon the commencement of this Act, must be dealt with as if the Social Service Professions Act had not been repealed.

(10) A notice or certificate issued by the Council in terms of the Social Service Professions Act is deemed to have been issued in terms of this Act.

(11) A regulation or rule prescribed in terms of the Social Service Professions Act and which is in force upon the date of the commencement of this Act, is deemed to have been prescribed under this Act and may be amended or repealed under this Act.

(12) A register kept in terms of the Social Service Professions Act is deemed to be a register kept in terms of this Act.

(13) An act performed or decision taken in terms of the Social

Service Professions Act is deemed to have been performed or to have been taken as if the Social Service Professions Act had not been repealed.

**Short title**

- 79.** This Act is called the Social Service Practitioners Act, 2018.