



South African Council for Social Service Professions

PROFESSIONAL CONDUCT
Social Service Professions Act 110 of 1978,
Regulations and Rules

2021

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South African Council for Social Service Professions (2021)

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About the South African Council for Social Service Professions (SACSSP)

The South African Council for Social Service Professions (SACSSP) is an autonomous statutory body established in terms of section 2 of the Social Service Professions Act 110 of 1978. The SACSSP discharges its mandate, subject to the provisions of the Social Service Professions Act 110 of 1978 together with the Regulations and Rules thereto, as the determining, guiding and directing authority body for the the social service professions of social work and child and youth care work in the country. The SACSSP fulfils this role through Council constituted in terms of section 5 of the Act and the Professional Board for Social Work and the Professional Board for Child and Youth Care Work established in terms of section 14A of the Act, by setting the standards for education and training of social service professionals (qualifications and continuous professional development); registration of social service professionals as a requirement to practice; setting standards for and exercise effective control over the professional conduct (including ethics) of social service professionals as well as by taking policy resolutions as guidelines for the practising of the social service professions under its auspices. Thus, protecting the integrity of the social service professions as well as the interest of the public at large. It is a legal requirement in terms of the Social Service Professions Act 110 of 1978 for a social worker, social auxiliary worker, student social worker, student social auxiliary worker, child and youth care worker (professional level), child and youth care worker (auxiliary level) and student child and youth care worker (at professional level or auxiliary level of study) to be registered and in good standing in terms of his or her registration as condition to practise.

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Social Service Professions Act 110 of 1978

Consolidated with all amendments

SOCIAL SERVICE PROFESSIONS ACT 110 OF 1978

(Previous short title, 'Social and Associated Workers Act', substituted by section 17 of Act 48 of 1989, and then short title 'Social Work Act' substituted by section 24 of Act 102 of 1998)

(English text signed by the State President)

[Assented To: 20 June 1978]
[Commencement Date: 1 September 1979]

as amended by

Social and Associated Workers Amendment Act 68 of 1985
Social Work Amendment Act 48 of 1989
Social Work Amendment Act 22 of 1993
Social Work Amendment Act 52 of 1995
Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996
Welfare Laws Amendment Act 106 of 1996
Social Work Amendment Act 102 of 1998

ACT

To provide for the establishment of a South African Council for Social Service Professions and to define its powers and functions; for the registration of social workers, student social workers, social auxiliary workers and persons practising other professions in respect of which professional boards have been established; for control over the professions regulated under this Act; and for incidental matters.

[Long title substituted by section 18 of Act 48 of 1989, by section 11 of Act 52 of 1995 and by section 25 of Act 102 of 1998.]

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1. Definitions

In this Act, unless the context otherwise indicates-

'associated profession'

[Definition of 'associated profession' deleted by section 1 (a) of Act 48 of 1989.]

'associated worker'

[Definition of 'associated worker' deleted by section 1 (a) of Act 48 of 1989.]

'committee' means a committee established under section 9 or 10;

'council' means the South African Council for Social Service Professions established by section 2;

[Definition of 'council' substituted by section 1 (a) of Act 52 of 1995 and by section 1 (a) of Act 102 of 1998.]

'Director-General' means the Director-General: Welfare;

[Definition of 'Director-General' inserted by section 1 (a) of Act 68 of 1985, substituted by section 1 (b) of Act 48 of 1989 and by section 1 (b) of Act 52 of 1995.]

'electorate'

[Definition of 'electorate' inserted by section 1 (c) of Act 52 of 1995 and deleted by section 1 (b) of Act 102 of 1998.]

'financial year' means a year ending on 31 March;

'former council'

[Definition of 'former council' inserted by section 1 (d) of Act 52 of 1995 and deleted by section 1 (b) of Act 102 of 1998.]

'legal representative' means an advocate or an attorney;

'magistrate'

[Definition of 'magistrate' deleted by section 1 (b) of Act 102 of 1998.]

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

[Definition of 'Minister' substituted by section 1 (b) of Act 68 of 1985, by section 1 (c) of Act 48 of 1989, by section 1 (e) of Act 52 of 1995 and by section 1 (c) of Act 102 of 1998.]

'prescribed', in relation to any matter referred to in section 27, means prescribed by rule made under that section, and in relation to any matter referred to in section 28, prescribe by regulation made under the last-mentioned section;

'professional board' means a board established under section 14A (1);

[Definition of 'professional board' inserted by section 1 (d) of Act 102 of 1998.]

'registrar' means a registrar appointed under section 11;

'regulation' means a regulation made under section 28;

'rule' means a rule made under section 27;

'social auxiliary worker' means a person registered under section 18;

[Definition of 'social auxiliary worker' inserted by section 1 (d) of Act 48 of 1989.]

'Secretary'

[Definition of 'Secretary' deleted by section 1 (c) of Act 68 of 1985.]

'social work'

[Definition of 'social work' deleted by section 1 (e) of Act 48 of 1989.]

'social worker' means a person registered under section 17;

[Definition of 'social worker' substituted by section 1 (d) of Act 68 of 1985.]

'student social worker' means a person registered under section 17A;

[Definition of 'student social worker' inserted by section 1 (e) of Act 68 of 1985 and substituted by section 1 of Act 22 of 1993.]

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

'**training institution**' means a university, college or other institution where a qualification can be obtained which complies with the requirements of prescribed qualifications as contemplated in section 17;

[Definition of 'training institution' inserted by section 1 (f) of Act 48 of 1989.]

'**unprofessional or improper conduct**' includes conduct contemplated in section 27 (1) (c).

[Definition of 'unprofessional or improper conduct' substituted by section 1 (g) of Act 48 of 1989.]

CHAPTER I

COUNCIL FOR SOCIAL SERVICE PROFESSIONS

[Heading substituted by section 2 of Act 22 of 1993, by section 2 of Act 52 of 1995 and by section 2 of Act 102 of 1998.]

2. Establishment of Council for Social Service Professions

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

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

[Section 2 substituted by section 2 (1) of Act 48 of 1989, by section 3 of Act 52 of 1995 and by section 3 of Act 102 of 1998.]

3 Objects of council

The objects of the council shall be-

- (a) to protect and promote the interests of the professions in respect of which professional boards have been or are to be established and to deal with any matter relating to such interests;
- (b) to maintain and enhance the prestige, status, integrity and dignity of the professions in respect of which professional boards have been established;
- (c) to advise the Minister in relation to any matter affecting the professions in respect of which professional boards have been established;
- (d) to control and to exercise authority with regard to all financial matters relating to the council and the professional boards;
- (e) to consult and liaise with relevant authorities on matters affecting the professional boards in general;
- (f) to determine, on the recommendation of the professional boards, the qualifications for registration of social workers, social auxiliary workers and persons practising other professions in respect of which professional boards have been established;
- (g) to regulate the practising of the professions in respect of which professional boards have been established and the registration of social workers, student social workers, social auxiliary workers and persons practising other professions in respect of which professional boards have been established;
- (h) to determine the standards of professional conduct of social workers, student social workers, social auxiliary workers and persons practising other professions in respect of which professional boards have been established and to ensure that they are maintained;

- (i) to exercise effective control over the professional conduct of social workers, student social workers, social auxiliary workers and persons practising other professions in respect of which professional boards have been established;
- (j) to encourage and promote efficiency in and responsibility with regard to the practice of the professions in respect of which professional boards have been established;
- (k) to assist in the promotion of social services to the population of the Republic;
- (l) to advise the Minister on the amendment or adaptation of this Act, in particular to place greater emphasis on professional practice, democracy, transparency, equity, accessibility and community need and involvement;
- (m) subject to section 14B (c), to control and to exercise authority in respect of all matters affecting-
 - (i) the training of persons in accordance with the developmental social welfare approach; and
 - (ii) the manner in which the practices pursued in the promotion of social services to the population of the Republic are exercised;
- (n) to investigate additional sources of funding for the council;
- (o) to promote liaison in the field of training relating to social services both in the Republic and elsewhere, and to promote the standards of such training in the Republic;
- (p) to promote and to regulate inter-professional liaison between registered professions in respect of which professional boards have been established in the interest of the public; and
- (q) to co-ordinate the activities of the professional boards and to act as an advisory and communicatory body for such professional boards.

[Section 3 amended by section 2 of Act 68 of 1985, substituted by section 3 of Act 48 of 1989, by section 3 of Act 22 of 1993, by section 4 of Act 52 of Act 52 of 1995 and by section 4 of Act 102 of 1998.]

4. Powers and functions of council

- (1) The council may, in order to achieve its objects-
 - (a) acquire or hire movable or immovable property;
 - (b) develop, mortgage, let, sell or otherwise dispose of or burden movable or immovable property of the council;
 - (c) accept, draw, endorse, issue, make, pay or perform any other act in respect of negotiable instruments;
 - (d) spend and invest funds of the council;
 - (e) enter into contracts;
 - (f) subject to the provisions of this Act, appoint such persons at the remuneration and on the other conditions of service which it deems fit for the carrying out of its functions and may dismiss such persons;
 - (g)

[Paragraph (g) substituted by section 4 of Act 48 of 1989 and deleted by section 5 (a) of Act 102 of 1998.]

- (h) undertake or cause to be undertaken any research or study on any matter relating to the profession of social work and other professions in respect of which professional boards have been established;
[Paragraph (h) substituted by section 4 of Act 48 of 1989 and by section 5 (b) of Act 102 of 1998.]
 - (i) exercise or perform any power or function conferred or imposed upon it by or under this Act or any other Act;
 - (j) generally take such other steps and perform such other acts as may be necessary for or conducive to the achievement of the objects of the council.
- (2)
- [Subs-section (2) added by section 3 of Act 68 of 1985 and deleted by section 5 of Act 52 of 1995.]

5. Constitution of council

- (1) The council shall consist of not less than 19 but not more than 34 members, namely-
- (a) six social workers elected in the prescribed manner by social workers;
 - (b) three representatives from each of the professions other than social work in respect of which professional boards have been established, elected in the prescribed manner by persons representing those professions; and
 - (c) 13 persons appointed by the Minister, of whom-
 - (i) two shall be nominated by the training institutions;
 - (ii) one shall be in the employment of the Department of Welfare in the national sphere of government;
 - (iii) two shall be nominated by national forums and networks in the welfare, social services and development field;
 - (iv) one shall be nominated by trade unions which represent employees engaged in developmental social welfare services;
 - (v) one shall be nominated by business;
 - (vi) one shall be nominated by the Minister of Education in the national sphere of government;
 - (vii) four shall be persons nominated by the community: Provided that-
 - (aa) one shall be appointed by virtue of his or her specialised knowledge in a field other than social work and whose appointment to the council will enhance its effectiveness; and
 - (bb) one shall be a disabled person; and
 - (viii) one shall be nominated by the heads of the departments responsible for welfare matters in the provincial sphere of government.
- (2) Any nominations in terms of subsection (1) (c) (i), (iii), (iv), (v), (vii) and (viii) shall be in the prescribed manner: Provided that, for the purposes of any nominations in terms of subsection

- (1) (c) (v) and (vii), the Minister shall through the media and by notice in the Gazette invite such nominations.
- (3) (a) A person who is elected or appointed in terms of subsection (1) shall-
- (i) be a South African citizen who is resident in the Republic; and
 - (ii) not be a person prohibited from continuing in office as contemplated in section 6 (1).
- (b) A person to be elected in terms of subsection (1) (a) or (b) shall be elected by persons who are South African citizens who are resident in the Republic.
- (4) One-
- (a) member elected in terms of subsection (1) (a) shall be designated to represent the profession of social workers on its professional board;
 - (b) of the three members elected as representatives from each profession in terms of subsection (1) (b) shall be designated to represent the relevant profession on the professional board concerned.
- (5) (a) The members of the council shall hold office for a period of five years reckoned from the date on which the notice referred to in subsection (7) is published in respect of them.
- (b) Members shall at the expiry of their terms of office be eligible for re-election and reappointment.
- (6) As soon as possible after the election of the members referred to in subsection (1), the Minister shall inform the registrar of the names of the persons who have been appointed by him or her in terms of subsection (2).
- (7) The registrar shall within 30 days of the constitution of the council, make known by notice in the Gazette the names of the members of the council, the dates of their election and their appointment by the Minister and the date of the commencement of their terms of office.

[Section 5 substituted by section 6 of Act 52 of 1995, amended by section 1 of Act 106 of 1996 and substituted by section 6 of Act 102 of 1998.]

6. Vacation of office and filling of vacancies

- (1) A member of the council shall vacate his or her office if-
- (a) the member's estate is sequestrated or he or she has entered into a composition with the creditors of his or her estate;
 - (b) the member has been absent from more than two consecutive ordinary meetings of the council without the council's leave;
 - (c) the member is disqualified under any law from practising his or her profession;
 - (d) the member ceases to be a South African citizen or to be permanently resident in the Republic;

- (e) the member is convicted of an offence, whether in the Republic or elsewhere, in respect whereof he or she is sentenced to imprisonment without the option of a fine;
 - (f) the member becomes a patient or a State patient as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973); (g) the member-
 - (i) in the case of a member elected in terms of section 5 (1) (a) or (b), ceases to hold a qualification required for his or her election or submits his or her resignation in writing to the registrar; or
 - (ii) in the case of a member appointed in terms of section 5 (1) (c), ceases to hold a qualification required for his or her appointment, or submits his or her resignation in writing to the Minister;
 - (h) the Minister terminates his or her membership for reasons which are just and fair.
- (2) Every vacancy on the council shall be filled in the same manner in which the member who vacates office was elected or appointed, as the case may be, and every member so elected or appointed shall hold the office for the unexpired portion of the period for which the member whose office became vacant was elected or appointed.

[Section 6 substituted by section 7 of Act 52 of 1995 and by section 7 of Act 102 of 1998.]

7. President and vice-president of council

- (1) At the first meeting of every newly constituted council the members of the council shall elect a president and a vice-president from among themselves.
- (2) If the office of the president or vice-president becomes vacant, the members of the council shall, at the first meeting after such vacancy has occurred or as soon thereafter as may be convenient, elect from among themselves a new president or vice-president, as the case may be, and the member so elected shall hold office for the unexpired portion of the period for which his predecessor was elected.
- (3) The president or vice-president of the council may vacate his office without terminating his membership of the council.

8. Meetings of council

- (1) The council shall hold at least two meetings in each year at such places as the council may determine, and may in addition hold such special meetings as the council may from time to time determine.
- (2) (a) A special meeting of the council may at any time be convened by the president, and shall be convened by him at the written request of the Minister or of at least six members of the council.
- (b) A special meeting shall be held at such place in the Republic as the president may determine and shall, in the case of any meeting convened as a result of a request referred to in paragraph (a), be held within thirty days after the date of receipt of such request by the president.

- (c) A request referred to in paragraph (a), shall clearly state the purpose for which the meeting is to be convened.
- (3) The quorum for and procedure at meetings of the council shall be as prescribed.
- (4) No resolution of the council or act performed under authority of the council shall be invalid by reason only of an interim vacancy on the council or by reason of the fact that a person who is not entitled to sit as a member of the council sat as a member at the time when the decision was taken or the act was authorized if the decision was taken or the act was authorized by the requisite majority of the members of the council who were present at the time and entitled to sit as members.

9. Executive committee

- (1) There shall be an executive committee of the council consisting of the president, the vice-president and at least five other members of the council, designated by the council: Provided that at least four members represent the professions contemplated in section 5 (1) (a) and (b) on the executive committee.

[Subs-section (1) substituted by section 8 of Act 102 of 1998.]

- (2)
 - (a) Subject to the provisions of this Act and the directions of the council, the executive committee may during periods between meetings of the council exercise all the powers of the council and perform all its functions
 - (b) The provisions of paragraph (a) do not empower the executive committee to set aside or amend any decision of the council.
 - (c) Any decision taken or act performed by or on the authority of the executive committee shall be of full force and effect, unless it is set aside or amended by the council at its first meeting following the meeting of the executive committee at which such decision was taken or such action was authorized.

- (3) The quorum for and the procedure at meetings of the executive committee shall be as prescribed.

[Subs-section (3) added by section 5 of Act 48 of 1989.]

10. Other committees

- (1) The council may from time to time establish in the prescribed manner such other committees as it may deem necessary, to assist it in the execution of its powers or the performance of its functions.
- (2)
 - (a) A committee shall exercise such powers and perform such functions as may from time to time be conferred or imposed upon it or delegated to it under this Act or by the council.
 - (b) The council may designate a member of a committee as the chairman of such committee, and if no member is so designated, the members of such committee may elect a chairman from among themselves.
 - (c) The quorum for and procedure at meetings of committees shall be as prescribed.

11. Appointment of registrar

- (1) Subject to the provisions of subsection (3), the council shall appoint a registrar.
[Subs-section (1) substituted by section 8 (a) of Act 52 of 1995.]
- (2) The registrar shall exercise the powers and perform the functions which from time to time are conferred or imposed upon him or her by or under this Act or any other act or by the council.
[Subs-section (2) amended by section 4 of Act 68 of 1985 and substituted by section 8 (a) of Act 52 of 1995.]
- (3) The appointment and dismissal of the registrar shall be subject to the approval of the Minister.
[Subs-section (3) substituted by section 8 (a) of Act 52 of 1995.]
- (4)
[Subs-section (4) amended by section 4 of Act 68 of 1985 and by section 4 of Act 22 of 1993 and deleted by section 8 (b) of Act 52 of 1995.]

12. Funds of council

- (1) The funds of the council shall consist of-
- (a) the moneys received by the council in terms of this Act;
 - (b) the fines imposed and recovered in terms of this Act;
 - (c) the moneys appropriated by Parliament for achieving the objects of the council;
 - (d) the moneys obtained by way of loans raised by the council with the approval of the Minister;
 - (e) any moneys accruing to the council from any other source.
- (2) The council shall use its funds for defraying the expenditure incurred in the achievements of its objects and the performance of its functions under this Act.
- (3) The council may invest any unexpected portion of its funds.

13. Book-keeping and auditing

- (1) The council shall cause records to be kept in the prescribed manner of all moneys received and spent by it, of all its assets and liabilities and of all financial transactions entered into by it, and shall as soon as possible after the end of every financial year cause statements of account and a balance sheet to be prepared, showing the prescribed particulars in respect of that financial year.
- (2) (a) The records, statements of account and balance sheet referred to in subsection (1), shall be audited by a person registered as an accountant and auditor under the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991), and appointed by the council.
[Paragraph (a) substituted by section 9 of Act 52 of 1995.]
- (b) A copy of such documents shall be transmitted to the Minister within the prescribed period and shall be open for inspection by the public at the prescribed places during the prescribed periods.

14.

[Section 14 repealed by section 5 of Act 68 of 1985.]

14A. Establishment of professional boards

- (1) The Minister shall, on the recommendation of the council, establish a professional board with regard to any social service profession, or with regard to two or more such professions.
- (2) The Minister may, on the recommendation of the council, change the professional boards with regard to the professions for which the professional boards have been established, and establish other professional boards.
- (3) Before making a recommendation as contemplated in subsection (2), the council shall consult with any body which is or persons who are in the opinion of the council representative of the majority of persons to be affected by such change or establishment.

[Section 14A inserted by section 9 of Act 102 of 1998.]

14B. Objects of professional boards

The objects of a professional board are-

- (a) to consult and liaise with other professional boards and relevant authorities on matters affecting the professional board;
- (b) to assist in the promotion of social services to the population of the Republic on a national basis;
- (c) to control and to exercise authority in respect of all matters affecting-
 - (i) the training of persons in the professions falling within the ambit of the professional board; and
 - (ii) the manner of the exercise of the practices pursued in connection with the professions falling within the ambit of the professional board;
- (d) to promote liaison, in co-operation with the training institutions, in the field of the training contemplated in paragraph (c) (i), both in the Republic and elsewhere, and to promote the standards of such training in the Republic;
- (e) to determine the minimum standards of education and training of persons practising the professions falling within the ambit of the professional board;
- (f) to communicate to the Minister information on matters of public importance acquired by the professional board in the course of the performance of its functions in terms of this Act;
- (g) to maintain and enhance the dignity and integrity of the professions falling within the ambit of the professional board; and
- (h) to guide the professions falling within the ambit of the professional board and to protect the public.

[Section 14B inserted by section 9 of Act 102 of 1998.]

14C. General powers of professional boards

- (1) Subject to subsection (3), a professional board may-

- (a) in the prescribed circumstances, or where otherwise authorised by this Act, direct the registrar to remove any name from a register or, upon payment of the prescribed fee, restore thereto, or suspend a registered person from practising his or her profession pending the carrying out of any inquiry in terms of section 21;
 - (b) appoint examiners and moderators, conduct examinations and grant certificates, and charge the prescribed fees in respect of such examinations or certificates;
 - (c) subject to prescribed conditions, approve training schools;
 - (d) consider any matter affecting any profession falling within the ambit of the professional board and make representations or take such action in connection therewith as the professional board considers advisable;
 - (e) subject to subsection (2), upon application by any person, recognise any qualification held by him or her (whether such qualification has been obtained in the Republic or elsewhere) as being equal, either wholly or in part, to any prescribed qualification, whereupon such person shall, to the extent to which the qualification has so been recognised, be deemed to hold such prescribed qualification;
 - (f) after consultation with any other professional board or boards, establish a joint standing committee or committees of the board or boards concerned; and
 - (g) perform such other prescribed functions, and generally, do all such things as the professional board considers necessary or expedient to achieve the objects of this Act in relation to a profession falling within the ambit of the professional board.
- (2) No qualification shall, in terms of subsection (1) (e), be recognised as being equal, either wholly or in part, to any prescribed qualification unless that qualification indicates a standard of professional education and training not lower than that prescribed qualification.
- (3) The council shall ratify any decision of a professional board relating to a matter not falling entirely within its ambit, and the council shall, for this purpose, determine whether a matter does not fall entirely within the ambit of a professional board.

[Section 14C inserted by section 9 of Act 102 of 1998.]

CHAPTER II

REGISTRATION OF SOCIAL WORKERS, STUDENT SOCIAL WORKERS, SOCIAL AUXILIARY WORKERS AND PERSONS PRACTISING OTHER PROFESSIONS IN RESPECT OF WHICH PROFESSIONAL BOARDS HAVE BEEN ESTABLISHED

[Heading substituted by section 5 of Act 22 of 1993 and by section 10 of Act 102 of 1998.]

- 15. Unregistered persons not to practise professions in respect of which professional boards have been established**
- (1) No person shall-
 - (a) for gain, directly or indirectly, in any manner whatsoever practise the professions in respect of which professional boards have been established, unless he or she has been registered under this Act as a social worker or as a person practising another profession in respect of which a professional board has been established or is deemed to have been so registered;

- (b) give instruction on any aspect of any subject in connection with a profession in respect of which a professional board has been established at a training institution, unless he or she-
- (i) has been registered under this Act as a social worker or as a person practising another profession in respect of which a professional board has been established; or
 - (ii) is a person who is not permanently resident in the Republic and who, with the approval of the professional board concerned, gives instruction in such aspect of such subject in connection with a profession in respect of which a professional board has been established at such training institution in the Republic, as that board may determine;
- (c) in any manner pretend to be a social worker, student social worker, social auxiliary worker or a person practising another profession in respect of which a professional board has been established, while he or she has not been registered under this Act.
- (2) In so far as any person undergoes practical training in a profession in respect of which a professional board has been established as a requirement for the acquisition of a prescribed qualification at a training institution, he or she shall be deemed not to practise the profession in respect of which a professional board has been established, provided he or she has been registered in terms of this Act as a student social worker or as a student of another profession in respect of which a professional board has been established and such practical training takes place under the supervision of a social worker or a person practising another profession in respect of which a professional board has been established, as the case may be.
- (3) Subsection (1) shall not apply-
- (a) to any person who has satisfied all the requirements for the prescribed qualifications and whose application for registration as a social worker, student social worker, social auxiliary worker or as a person practising another profession in respect of which a professional board has been established under this Act is under consideration by the council;
 - (b) to any person other than a social worker or a person practising another profession in respect of which a professional board has been established under this Act who is permitted or authorized in terms of any other Act of Parliament to perform or apply any act which especially pertains to the professions in respect of which professional boards have been established, as the holder of an office or in the ordinary course of the practice of a profession referred to in such Act;
 - (c) to any person belonging to a category of persons designated by the council for the purposes of this subsection by notice in the Gazette.
- (4) For the purposes of subsection (1) a person shall be deemed to practise a profession in respect of which a professional board has been established for gain if he or she receives any reward for the performance of any act which especially pertains to a profession in respect of which a professional board has been established.

16. Offence and penalty

Any person who contravenes any provision of section 15 (1), shall be guilty of an offence and on conviction be liable to a fine, or to imprisonment for a period not exceeding six months.

[Section 16 amended by section 7 of Act 48 of 1989 and substituted by section 7 of Act 22 of 1993.]

17 Registration of social worker

(1) The council may, on application made in the prescribed manner, register as a social worker any person who holds the prescribed qualifications and satisfies the prescribed conditions, and who satisfies the council that he is a fit and proper person to be allowed to practise the profession of social work.

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

[Paragraph (a) substituted by section 8 of Act 22 of 1993.]

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

(3) Any person registered in terms of this section or who is deemed to have been registered as a social worker, may use the title social worker.

(4) Every person who immediately prior to the commencement of this Act was registered as a social worker in terms of an Act which is repealed by this Act and who is resident in the Republic at such commencement, shall be deemed to be registered as a social worker in terms of this section.

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

17A. Registration of student social workers

(1) The council may, on application made in the prescribed manner, register as a student social worker any person who studies the subject Social Work at a training institution, and who satisfies the prescribed conditions.

[Subs-section (1) substituted by section 8 of Act 48 of 1989.]

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

[Section 17A inserted by section 7 of Act 68 of 1985.]

17B. When qualification will not serve as prescribed qualification

(1) If it appears to the council-

(a) that any provision of this Act is not being properly complied with by any training institution; and

- (b) that such improper compliance is having or may have an adverse effect on the standards maintained at that training institution in respect of education and training in any profession in respect of which a professional board has been established,

the Minister may, on the recommendation of the council, by notice in the Gazette declare that any specified degree, diploma or certificate awarded by such training institution after a date specified in the notice will not serve as a prescribed qualification.

[Subs-section (1) amended by section 9 (a) of Act 22 of 1993 and substituted by section 12 of Act 102 of 1998.]

- (2) The Minister may, if it appears to him or her upon representations made by the council that satisfactory provision has been made for complying with the requirements of this Act by any training institution concerned in respect of any degree, diploma or certificate which is the subject of a notice issued under subsection (1), withdraw the said notice.

[Subs-section (2) substituted by section 12 of Act 102 of 1998.]

- (3)

[Subs-section (3) deleted by section 9 (b) of Act 22 of 1993.]

[Section 17B inserted by section 9 of Act 48 of 1989.]

17C. Registration of additional qualifications and specialities

- (1) The Council may from time to time prescribe the degrees, diplomas or certificates which may be registered as additional qualifications or the proficiencies which may be registered as specialities.

- (2) (a) A social worker or a person practising another profession in respect of which a professional board has been established who desires to have a degree, diploma or certificate other than the prescribed qualification by virtue of which he or she has been registered, or a speciality, registered, shall apply to the registrar, submitting-

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

- (b) If the registrar is satisfied that such additional qualification is a degree, diploma or certificate prescribed in terms of subsection (1), or, in respect of a speciality, that such speciality has been prescribed and that the prescribed requirements have been complied with, he or she shall, upon payment of the prescribed fee, cause such degree, diploma or certificate, or speciality, as the case may be, to be entered in the register against the name of the applicant.

[Subs-section (2) substituted by section 13 of Act 102 of 1998.]

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

- (b) The examination which shall be conducted for the purposes of paragraph (a) and the fees which shall be paid by persons who sit for such examination shall be as prescribed.
- (c) The registrar shall, upon payment of the prescribed fee, cause the speciality of a social worker or person practising another profession in respect of which a professional board has been established who has satisfactorily passed an examination referred to in paragraph (a) to be entered against the name of that social worker or person practising another profession in respect of which a professional board has been established.
[Subs-section (2A) inserted by section 10 of Act 22 of 1993 and substituted by section 13 of Act 102 of 1998.]
- (3) (a) The registrar shall, on the instruction of the council, remove from the register any degree, diploma or certificate registered as an additional qualification in terms of this section, if in respect of such qualification the name of the holder thereof has been removed from the roll, register or records of the university, college or institution, or society at or from which that social worker or person practising another profession in respect of which a professional board has been established, obtained or acquired such qualification.
- (b) The registrar shall, on the instruction of the council, remove from the register any speciality registered in terms of this section, if the social worker concerned, or the person practising another profession in respect of which a professional board has been established ceases to comply with any prescribed requirement for the registration of the speciality in question, or, in the case of a social worker or a person practising another profession in respect of which a professional board has been established in respect of whom a speciality is registered, if such person has lodged with the registrar a written application for the removal of the speciality in question from the register.
- (c) A degree, diploma or certificate removed in terms of paragraph (a), or a speciality removed in terms of paragraph (b), shall, on the instruction of the council, be restored by the registrar to the register if the social worker concerned or the person practising another profession in respect of which a professional board has been established-
- (i) applies on the prescribed form for such restoration;
 - (ii) pays the fees (if any) prescribed in respect of such restoration; and
 - (iii) in the opinion of the council complies with such other requirements (if any) as the council may determine.
- [Subs-section (3) substituted by section 13 of Act 102 of 1998.]
- (4) No person shall take up, use or publish in any manner whatsoever any name, title, description or symbol indicating or calculated to lead persons to infer that he or she possesses an additional qualification contemplated in subsection (1), if such qualification has not been entered in the register against his or her name.
[Subs-section (4) substituted by section 13 of Act 102 of 1998.]
- (5) No person registered under this Act shall practise as a specialist or shall pretend to be such a specialist, or shall in any other manner profess to be a person in respect of whom a speciality has been registered, unless the speciality in question has been registered in terms of this section in respect of such person.
[Subs-section (5) substituted by section 13 of Act 102 of 1998.]
[Section 17C inserted by section 9 of Act 48 of 1989.]

17D. Qualifications obtained outside Republic

- (1) No qualification obtained by virtue of examinations conducted by a training institution situated outside the Republic shall be prescribed in terms of this Act, unless-
- (a) such qualification will entitle the holder thereof to practise as a social worker or person practising another profession in respect of which a professional board has been established in the country or state in which such training institution is situated;
 - (b) the council is satisfied that possession of such qualification indicates a standard of professional education and training not lower than that prescribed in respect of the education and training of social workers or persons practising other professions in respect of which professional boards have been established within the Republic.
- [Subs-section (1) substituted by section 14 of Act 102 of 1998.]
- (2) Subject to subsection (1), the council may require a person who holds a qualification referred to in subsection (1) and who applies for registration as a social worker under section 17 or as a person practising another profession in respect of which a professional board has been established under section 18A, to pass to the satisfaction of the council, on a date and at a place determined by the council, an examination prescribed under subsection (3) before examiners appointed by the council, for the purpose of determining whether such person possesses adequate professional knowledge and skill to be registered as a social worker or as a person practising another profession in respect of which a professional board has been established and whether he or she is proficient in any of the official languages of the Republic.
- [Subs-section (2) substituted by section 14 of Act 102 of 1998.]
- (3) The Minister may on the recommendation of the council make regulations which prescribe the examination which shall be conducted for the purposes of subsection (2) and the fees which shall be paid by persons who sit for such examination.

[Section 17D inserted by section 11 of Act 22 of 1993.]

18. Registration of social auxiliary workers

- (1) The council may, on application made in the prescribed manner, register any person as a social auxiliary worker who holds any qualification referred to in subsection (2), complies with the prescribed conditions and satisfies the council that he is a fit and proper person to be registered as a social auxiliary worker.
- (2) The council may by rule prescribe the qualifications obtained in the Republic which entitle the holder thereof to registration as a social auxiliary worker, and the conditions subject to which such registration may take place.
- (3) Different qualifications and conditions may be prescribed in respect of different categories of social auxiliary workers.
- (4) A condition referred to in subsection (2) may pertain to the passing of an examination and the payment of fees prescribed for such examination.

[Subs-section (4) added by section 12 of Act 22 of 1993.]

[Section 18 substituted by section 10 of Act 48 of 1989.]

18A. Registration of persons practising other professions in respect of which professional boards have been established

- (1) The council may, on application made in the prescribed manner, register any person who wishes to practise a profession in respect of which a professional board has been established, other than social work, and who holds any qualification referred to in subsection (2), complies with the prescribed conditions and satisfies the professional board concerned that he or she is a fit and proper person to be registered as such.
- (2) The council may prescribe the qualifications obtained in the Republic which will entitle the holder thereof to registration and the conditions subject to which such registration may take place.
- (3) Different qualifications and conditions may be prescribed in respect of different categories of persons.
- (4) A person may be registered with more than one professional board.
- (5) A condition referred to in subsection (2) may pertain to the passing of an examination and the payment of fees prescribed for such examination.
- (6)
 - (a) The registrar shall issue to any person registered under subsection (1) a certificate of registration in a form approved by the council and subject to the prescribed conditions.
 - (b) The registrar may under the prescribed circumstances and on payment of the prescribed fees, issue to prescribed persons, duplicates of such registration certificates or extracts from any register which he or she is required to keep in terms of this Act.
- (7) The registrar shall in writing advise every person whose application for registration under subsection (1) has been rejected, of the reasons for the rejection.

[Section 18A inserted by section 15 of Act 102 of 1998.]

18B. Registration of students of other professions in respect of which professional boards have been established

- (1) The council may, on application made in the prescribed manner, register as a student any person who studies a profession, other than social work, in respect of which a professional board has been established at a training institution and who satisfies the prescribed conditions.
- (2)
 - (a) The registrar shall issue to any person registered under subsection (1) a certificate of registration in a form approved by the council and subject to the prescribed conditions.
 - (b) The registrar may under the prescribed circumstances and on payment of the prescribed fees, issue to prescribed persons, duplicates of such registration certificates or extracts from any register which he or she is required to keep in terms of this Act.
- (3) The registrar shall in writing advise every person whose application for registration under subsection (1) has been rejected, of the reasons for the rejection.

[Section 18B inserted by section 15 of Act 102 of 1998.]

19. Keeping of registers

- (1) The registrar shall keep separate registers in respect of social workers, student social workers, social auxiliary workers and persons practising other professions in respect of which professional boards have been established registered in terms of this Act and shall, subject to the provisions of this Act, record in the appropriate register the prescribed particulars in the prescribed manner in respect of every such social worker, student social worker, social auxiliary worker and person.
[Subs-section (1) substituted by section 8 of Act 68 of 1985, by section 11 of Act 48 of 1989 and by section 16 of Act 102 of 1998.]
- (2) Such registers shall be kept in the council's office and any document purporting to be an extract therefrom, signed by the registrar, shall on production thereof be admissible as evidence and shall be prima facie proof, in any proceedings, of the facts therein recorded.
- (3) A certificate purporting to be signed by the registrar and in which it is certified that the name of a person mentioned therein does not appear in the said register, shall be prima facie proof of the fact that such person is not registered according to the provisions of this Act.

20. Removal from, rectification in and restoration to register of names

- (1) The council may order the registrar to remove the name of any person from the register concerned if the council is satisfied that such person-
 - (a) has died;
 - (b) has requested that his name be removed from such register and that no steps in terms of Chapter III are pending or contemplated, or will probably be instituted, against him;
 - (c) has left the Republic permanently or that he has been absent from the Republic for a continuous period of more than three years without the council's permission;
 - (d) has failed to pay any money which he owes to the council within three months after the date upon which it became payable;
[Paragraph (d) substituted by section 9 (a) of Act 68 of 1985.]
 - (e) has failed to furnish the address of his permanent residence in accordance with the written request of the registrar, addressed to his address as registered in the register concerned;
 - (f) is detained as a mentally ill person under the Mental Health Act, 1973 (Act 18 of 1973);
 - (g) has obtained his registration fraudulently;
 - (h) has been registered in error.
- (1A) Notice of the removal of a person's name from the register by virtue of the provisions of any one of paragraphs (b) to (h) of subsection (1) shall be given by the registrar to the person concerned by registered letter sent through the post to him to his address as registered in the register concerned.
[Subs-section (1A) inserted by section 9 (b) of Act 68 of 1985.]
- (2) The council may order the registrar to rectify any entry in a register in respect of which the council is satisfied that it is incorrect, and the registrar shall record any such rectification in the register concerned.

- (3) If the council is satisfied that the reason why any person's name has been removed from a register has ceased to exist and that he satisfies the requirements for registration in terms of this Act, the council may on application made in the prescribed manner by such person and after payment of the prescribed fee, order that his name be restored to the register from which it was so removed.

CHAPTER III

DISCIPLINARY POWERS OF THE COUNCIL

21. Inquiry by council into alleged unprofessional or improper conduct

- (1) The council may inquire into alleged unprofessional or improper conduct on the part of a social worker, student social worker, social auxiliary worker or person practising another profession in respect of which a professional board has been established, and such inquiry shall not be restricted to the acts or omissions contemplated in section 27 (1) (b).
[Subs-section (1) substituted by section 10 of Act 68 of 1985, by section 12 (a) of Act 48 of 1989 and by section 17 of Act 102 of 1998.]
- (2) The council may, for the purposes of such inquiry-
- (a) summon in the prescribed manner any person who, in the opinion of the council, is able to furnish information of material importance to the inquiry, or who the council has reason to believe has in his possession or custody or under his control, any book, document or record relating to the subject of the inquiry, to appear at a time and place specified in the summons to be examined or to produce such book, document or record and may retain for examination any book, document or record so produced;
- (b) through the person presiding at the inquiry, administer an oath to, or accept an affirmation from, any person present at the inquiry, and examine him or cause him to be examined by a person designated by the council to lead the evidence at the inquiry, and instruct him to produce any book, document or record in his possession, custody or control.
- (3) A summons referred to in subsection (2) shall contain the prescribed information and shall be served in the prescribed manner, and the provisions of section 51 (2) of the Magistrates' Courts Act, 1944 (Act 32 of 1944), shall apply mutatis mutandis in respect of any person on whom such summons has been so served.
- (4) The law relating to privilege, as applicable to a witness summoned to give evidence or to produce a book, document or record, in a civil trial before a court of law, shall mutatis mutandis apply in relation to the examination of or the production of any book, document or record by any person summoned in terms of this section.
- (4A) If the record of the proceedings before any court of law is relevant in any inquiry in terms of this section, such record shall upon the mere production thereof be prima facie proof of the facts stated therein.
[Subs-section (4A) substituted by section 12 (b) of Act 48 of 1989.]
- (5) If the conduct which forms the subject of any inquiry referred to in subsection (1), forms or is likely to form the subject of any criminal or civil proceedings in a court of law, the council may postpone the inquiry until such proceedings have been concluded.

- (6) Any person against whom an inquiry is instituted under this Chapter, shall be entitled either in person or through his legal representative to answer the charge and to be heard in his defence.
- (7) The council may generally or in any specified case appoint a committee in the prescribed manner to exercise and perform all powers and functions of the council under this Chapter, and if the council so appoints a committee, the said powers and functions shall be deemed to have been delegated to or imposed upon the committee.
- [Subs-section 7 substituted by section 12 (c) of Act 48 of 1989.]
- (8) Any person who, having been duly sworn or having made an affirmation, tenders false evidence at an inquiry held under this Chapter, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties which may lawfully be imposed for the offence of perjury.

22. Disciplinary powers of council

- (1) Any person who, after an inquiry held by the council, has been found guilty of unprofessional or improper conduct, shall be liable to one or other of the following penalties, namely-
- (a) a reprimand or a caution;
 - (b) suspension of his registration for a specific period on the conditions determined by the council;
 - (c) the cancellation of his registration; or
 - (d) a fine not exceeding R5 000.
- [Paragraph (d) added by section 13 (a) of Act 22 of 1993 and substituted by section 18 (a) of Act 102 of 1998.]
- (1A) (a) If the council finds a person guilty in terms of subsection (1) it may-
- (i) postpone the imposition of a penalty for such period and on such conditions as it may determine; or
 - (ii) impose any penalty referred to in subsection (1) (b) or (c), but order that the execution thereof be suspended for such period and on such conditions as the council may determine.
- (b) (i) If at the end of the period for which the imposition of a penalty has been postponed in terms of paragraph (a) (i), the council is satisfied that the person concerned has complied with all the relevant conditions, the council shall inform him that no penalty will be imposed upon him.
- (ii) If any person in respect of whom the imposition of a penalty was postponed under paragraph (a) (i), fails to comply with any of the conditions imposed upon him in terms of that provision and the council is satisfied that the non-compliance with the conditions was not due to circumstances beyond that person's control, the council may impose any of the penalties referred to in subsection (1) as if the imposition of the penalty had never been postponed.
- [Sub-paragraph (ii) amended by section 13 (b) of Act 22 of 1993.]
- (c) If the execution of a penalty has been suspended (*sic*) in terms of paragraph (a) (ii) and-

- (i) the council is satisfied that the person concerned has complied with all the relevant conditions throughout the period of suspension, the council shall inform him that the execution of the penalty will not be put into operation;
- (ii) the person concerned fails to comply with any of the conditions of suspension, the council shall put the penalty imposed into operation unless such person satisfies the council that the non-compliance with the conditions in question was due to circumstances beyond his control.

[Subs-section (1A) inserted by section 13 (a) of Act 48 of 1989.]

- (2) Subject to the other provisions of this Chapter the registrar shall-
- (a) remove from the register concerned the name of any person whose registration has been cancelled under subsection (1)(c);
 - (b) record in the register concerned against the name of such person the particulars of any penalties imposed on him in terms of paragraph (a), (b) or (d) of subsection (1);
[Paragraph (b) substituted by section 13 (c) of Act 22 of 1993.]
 - (c) issue the prescribed notices in respect of any person found guilty of unprofessional or improper conduct under this Chapter.
- (3) Any person whose registration has been suspended in terms of this Act, shall for the period of such suspension be deemed not to be so registered.
- (4) Subject to the provisions of sections 17 (1), 17A (1), 18 (1), 18A (1), and 18B (1), the council may, after the expiration of such period as the council in each case may determine, again register as a social worker, student social worker, social auxiliary worker or person practising another profession in respect of which a professional board has been established, as the case may be, any person whose registration has been cancelled under this Act.
[Subs-section (4) substituted by section 11 of Act 68 of 1985, by section 13 (b) of Act 48 of 1989 and by section 18 (b) of Act 102 of 1998.]
- (5) The council 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 council may think fit, terminate such suspension.
- (6) If a person registered under this Act (in this section referred to as the accused) is alleged to be guilty of unprofessional or improper conduct and the council on reasonable grounds is of the opinion that after inquiry the accused may be found guilty of such conduct as is contemplated in subsection (1) and that in respect thereof it would impose a fine not exceeding R200, the council may issue an appropriate summons on the prescribed form against the accused carrying an endorsement by the council that the accused may admit that he is guilty of the said conduct and that he may pay the fine, not exceeding R200, specified in the summons, without having to appear at an inquiry in terms of section 21.
[Subs-section (6) added by section 13 (d) of Act 22 of 1993.]
- (7) If a summons is in terms of subsection (6) issued against an accused, he may, without appearing at an inquiry in terms of section 21, admit that he is guilty of the conduct mentioned in subsection (6) by paying the specified fine (in this section referred to as the admission of guilt fine) to the council on or before the date specified in the summons.
[Subs-section (7) added by section 13 (d) of Act 22 of 1993.]
- (8) (a) Any penalty imposed under this section, excluding an admission of guilt fine, shall be paid to the council within 14 days after the imposition thereof.

- (b) The imposition of a fine under this section shall have the effect of a judgment in civil proceedings in the magistrate's court of the district in which the inquiry in question under section 21 took place.

[Subs-section (8) added by section 13 (d) of Act 22 of 1993.]

23. Court may direct that copy of record of proceedings be transmitted to council

Whenever in the course of any proceedings before any court of law, such court is satisfied that there is prima facie proof of unprofessional or improper conduct on the part of a registered person, the court may direct that a copy of the record of such proceedings, or such portion thereof as is material to the issue, shall be transmitted to the council.

[Section 23 substituted by section 14 of Act 48 of 1989.]

**CHAPTER IV
GENERAL PROVISIONS**

24. Legal aid at inquiries under this Act

The council may appoint any person who is not a member of the council but who is experienced in the administration of justice, to be present as an assessor at any inquiry under this Act, to advise the council or the committee holding the inquiry on questions of law, procedure or evidence.

25. Appeal against refusal, penalty, or removal from register

- (1) Any person aggrieved-
- (a) by the refusal of the council or a committee to register him under this Act or to restore his name to a specified register;
 - (b) by any penalty imposed on him in terms of section 22 (1);
 - (c) by the removal of his name from a register in terms of section 20 (1),

may within a period of three months after the date of such refusal, imposition of penalty or removal, appeal to an appeal committee.

- (2) Any appeal committee referred to in subsection (1) shall be appointed by the Minister and shall consist of-
- (a) a person who is versed in law, who shall be the chairperson; and
 - (b) two persons of senior standing in the profession concerned who have no direct interest in the affairs of the appellant or are not in the employ of the appellant and who are not members of the council.

[Subs-section (2) substituted by section 19 of Act 102 of 1998.]

- (3) The appellant may in person or through a legal representative appear before the appeal committee or submit written statements or arguments in support of his appeal.
- (4) The procedure to be followed in connection with the noting and prosecution of an appeal lodged in terms of this section, shall be as prescribed.

- (5) The appeal committee hearing an appeal under this section, may confirm or set aside the refusal, penalty or removal forming the subject of the appeal, and may, if it is set aside, give such judgment as in its opinion ought to have been given by the council or committee and may direct the council to do everything necessary to give effect to the judgment of the appeal committee.
- (6)
- [Subs-section (6) deleted by section 80 of Act 88 of 1996.]
- (7) The commencement of a refusal, penalty or removal against which an appeal is lodged, shall be postponed by the lodging of an appeal in terms of subsection (1), to the date on which the appeal is withdrawn or disposed of by the appeal committee.
- (8) Any member of the appeal 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.

26. Limitation of liability

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

[Section 26 substituted by section 81 of Act 88 of 1996 and by section 20 of Act 102 of 1998.]

27. Rules

- (1) The council may, after consultation with the professional board concerned and with the approval of the Minister, make rules relating to-
- (a) the conduct of social workers, student social workers, social auxiliary workers or persons practising other professions in respect of which professional boards have been established, in practising their profession;
 - (b) the acts or omissions of a social worker, student social worker, social auxiliary worker or person practising another profession in respect of which a professional board has been established, which shall constitute unprofessional or improper conduct;
 - (c) the powers, duties and conditions of service of the registrar;
 - (d) the institution, powers and functions of committees;
 - (e) the tariff of fees serving as a guide for the fees which may be charged in respect of professional services rendered by a social worker, student social worker, social auxiliary worker or person practising another profession in respect of which a professional board has been established;
 - (f) any matter which the council considers necessary or expedient for the achievement or promotion of its objects or for the exercise of its powers or the performance of its functions.
- (2) Different rules may in terms of subsection (1) be made in respect of social workers, student social workers, social auxiliary workers and persons practising other professions in respect of which professional boards have been established.

[Section 27 amended by section 12 of Act 68 of 1985 and by section 15 of Act 48 of 1989 and substituted by section 21 of Act 102 of 1998.]

28. Regulations

- (1) The Minister may, on the recommendation of the council, make regulations relating to-
- (a) the fees which shall be paid annually by social workers, student social workers, social auxiliary workers and persons practising other professions in respect of which professional boards have been established to the council, and the fees which shall be paid to the council in respect of-
 - (i) the registration or re-registration of social workers, student social workers, social auxiliary workers or persons practising other professions in respect of which professional boards have been established, and of additional qualifications, specialities and private practices;
 - (ii) the restoration of a qualification, speciality, practice and name of such a social worker, student social worker, social auxiliary worker and person practising another profession in respect of which a professional board have been established to a register;
 - (iii) any application which shall or may be made under this Act;
 - (iv) the issue of registration certificates or copies thereof;
 - (v) the provision of extracts from any register;
 - (vi) any other act which shall or may be performed by the council or by the registrar under this Act;

[Paragraph (a) substituted by section 16 (a) of Act 48 of 1989 and by section 22 (a) of Act 102 of 1998.]
 - (b) the allowances which may be paid to members of the council and of committees in respect of the carrying out of their functions;
 - (c) subject to the general policy determined by the Minister of National Education in terms of section 2 (1) (d) of the National Policy for General Education Affairs Act, 1984 (Act 76 of 1984), the minimum requirements for the education and training, and the nature, content and duration of the curricula and practical training, which shall be a requirement for the acquisition of a prescribed qualification;
- [Paragraph (c) substituted by section 14 (a) of Act 22 of 1993.]
- (d) the institution of an inquiry in terms of Chapter III, including-
 - (i) the manner in which any complaint of alleged unprofessional or improper conduct by a social worker, student social worker, social auxiliary worker or person practising another profession in respect of which a professional board has been established shall be lodged with the council;
 - (ii) the manner in which any such inquiry shall be instituted and conducted, the procedure to be followed thereat and any other matter connected with the institution or conducting thereof;

[Paragraph (d) substituted by section 22 (b) of Act 102 of 1998.]
 - (e) the form of any notice or summons given or served under this Act;
- [Paragraph (e) substituted by section 14 (b) of Act 22 of 1993.]
- (f)
 - (i) the registration and conduct of a private practice by a social worker;
 - (ii) the professional practices of a social worker conducting a private practice;

[Paragraph (f) substituted by section 16 (c) of Act 48 of 1989.]

- (g) the documents which shall accompany any application in terms of this Act;
- (gA) (i) the requirements to be complied with by an applicant for the registration of a speciality;
- (ii) the conditions subject to which any social worker or person practising another profession in respect of which a professional board has been established may practise the profession of social work or the other profession in respect of which a professional board has been established, as the case may be, in respect of a registered speciality;
- [Paragraph (gA) inserted by section 16 (d) of Act 48 of 1989 and substituted by section 22 (c) of Act 102 of 1998.]
- (gB) acts which especially pertain to the profession of social work or to any other profession in respect of which a professional board has been established;
- [Paragraph (gB) inserted by section 16 (d) of Act 48 of 1989 and substituted by section 22 (c) of Act 102 of 1998.]
- (gC) the conditions subject to which any person registered in terms of this Act may practise his profession;
- [Paragraph (gC) inserted by section 14 (c) of Act 22 of 1993.]
- (gD) the constitution, functions and functioning of a professional board, which shall at least provide for-
 - (i) the majority of the members of the professional board to be members of the profession or professions concerned;
 - (ii) persons representing the community to comprise not less than 20 per cent of the membership of the professional board, with a minimum of one such representative for every profession concerned;
 - (iii) relevant educational institutions to be represented;
 - (iv) the welfare authorities to be represented;
 - (v) one or more persons versed in law to be appointed, where appropriate;
 - (vi) the establishment by the professional board of such committees as it considers necessary, each consisting of so many persons appointed by the professional board as it may determine, but including at least one member of the professional board who shall be the chairperson of such committee;
 - (vii) the delegation by the professional board of its powers to any person or any committee of the professional board, as it may determine, but the professional board shall not be divested of any powers so delegated;
 - (viii) the procedure to be followed for the appointment and election, as the case may be, of the members of the professional board;
 - (ix) the appointment by the Minister of a chairperson and vice-chairperson from nominations by the members of the professional board and the powers and functions of such a chairperson and vice-chairperson; and
 - (x) the term of office of the members of a professional board;
- [Paragraph (gD) inserted by section 22 (d) of Act 102 of 1998.]

- (h) any matter, except a matter referred to in section 27, which may or is required to be prescribed under this Act;
 - (i) generally, all matters which he considers necessary or expedient in order to attain the objects of this Act.
- (2) The Minister may, if he deems it necessary in the public interest, without the recommendation of the council, but after consultation with the executive committee of the council-
- (a) make regulations relating to any of the matters referred to in subsection (1);
 - (b) by regulation amend or repeal any regulation made under that subsection;
 - (c) by notice in the Gazette amend or repeal any rule made under the provisions of this Act.
- (3) Any regulation made under this section may, for any contravention thereof or failure to comply therewith, prescribe a fine, or imprisonment for a period not exceeding three months.
- [Subs-section (3) substituted by section 16 (e) of Act 48 of 1989 and by section 14 (d) of Act 22 of 1993.]
- (4) Different regulations may under this section be made in respect of social workers, student social workers, social auxiliary workers and persons practising other professions in respect of which professional boards have been established, and regulations under-
- (a) paragraph (a) of subsection (1) may exempt persons or categories of persons from payment of the fees contemplated in that paragraph;
 - (b) subsection (1) (c) shall be made after consultation with training institutions in the Republic;
 - (c) subsection (1) (gB) shall be made with the concurrence of the Competition Board established by section 3 of the Maintenance and Promotion of Competition Act, 1979 (Act 96 of 1979).

[Subs-section (4) substituted by section 16 (f) of Act 48 of 1990 and by section 22 (e) of Act 102 of 1998.]
[Section 28 substituted by section 13 of Act 68 of 1985.]

28A. Abolition of South African Interim Council for Social Work, and transitional arrangements

- (1) The South African Interim Council for Social Work, established by section 2 of this Act before its amendment by the Social Work Amendment Act, 1998, shall cease to exist on the day immediately preceding the date of the first meeting of the council.
- (2) All rights, obligations, assets and liabilities acquired or incurred by the South African Interim Council for Social Work shall immediately vest in the council and the council shall be deemed to have acquired or incurred such rights, obligations, assets and liabilities in terms of this Act.

[Section 28A inserted by section 10 of Act 52 of 1995 and substituted by section 23 of Act 102 of 1998.]

29. Repeal of certain provisions of Act 79 of 1965

The National Welfare Act, 1965, is hereby repealed in so far as it relates to social workers.

30 Short title

This Act shall be called the Social Service Professions Act, 1978.

[Section 30 substituted by section 17 of Act 48 of 1989 and by section 24 of Act 102 of 1998.] [a68y1985]

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**Regulations regarding the conducting of inquiries into alleged
unprofessional conduct**

(Government Notice No. R. 917 published in Government Gazette No 25109 of 27 June 2003)

**DEPARTMENT OF SOCIAL DEVELOPMENT
DEPARTEMENT VAN MAATSKAPLIKE ONTWIKKELING**

No. R. 917

27 June 2003

**REGULATIONS REGARDING THE CONDUCTING OF INQUIRIES INTO ALLEGED
UNPROFESSIONAL CONDUCT**

The Minister of Social Development has in terms of section 28(1)(d) and (e) of the Social Service Professions Act, 1978 (Act No. 110 of 1978), and on the recommendation of the South African Council for Social Professions, made the regulations in the Schedule hereto.

SCHEDULE

Definitions

1. In these regulations "the Act" shall mean the Social Service Professions Act, 1978 (Act No 110 of 1978), and any expression to which a meaning has been assigned in the Act shall have such meaning and, unless the context otherwise indicates -

"*certified copy*" shall mean a copy of a document certified by a commissioner of oaths to be a true and just copy of the original;

"*chairperson*" shall mean the person chairing a disciplinary inquiry or a preliminary inquiry;

"*committee of preliminary inquiry*" shall mean a committee referred to in regulation 2(4);

"*designated complainant*" shall mean a legal representative who is not a member of the council or a professional conduct committee and who is designated by the council to act as a prosecutor at a specific disciplinary inquiry or at disciplinary inquiries in general,

"*disciplinary inquiry*" shall mean an inquiry held in terms of Chapter III of the Act and these regulations;

"*inquiring body*" shall mean the council or a committee appointed by the Council to perform any functions in terms of these regulations;

"*preliminary inquiry*" shall mean an inquiry held in terms of regulations 5 - 15 of these regulations;

"*professional conduct committee*" shall mean a committee referred to in regulation 2(1);

"*registered person*" shall mean a person registered with the council in terms of the Act;

"*respondent*" shall mean a registered person against whom a complaint of unprofessional conduct has been lodged.

Constitution of a professional conduct committee and a committee of preliminary inquiry

2.(1) Subject to the provisions of subregulation (2) a committee appointed in terms of section 21(7) of the Act, functioning as a professional conduct committee, shall consist of not more than five, but not less than three persons, who are designated by the council, and of whom at least one

person shall be a member of the council and one other person shall be a member of the professional board concerned when such a board has been established: Provided that the majority of the members be members of the council and/or professional board concerned.

(2) If, during any stage of a disciplinary inquiry, a member of the inquiring body dies or becomes incapable of acting or is absent for any reason, the disciplinary inquiry shall proceed before the remaining members of the inquiring body if they form a majority of the members before whom the inquiry initially started, and if those remaining members do not form such a majority or only one member remains, the disciplinary inquiry shall start a new unless all the parties at the proceedings agree in writing and unconditionally to accept the decision of the majority of such remaining members or remaining member as the decision of the inquiring body.

(3) Subject to the provisions of subregulation (2) the finding of the majority of the members of the inquiring body shall be the finding of such body.

(4) A committee established in terms of section 10 of the Act, functioning as a committee of preliminary inquiry shall, notwithstanding the provisions of rule 2(1) of the Rules concerning the institution, powers, functions and procedures of committees as published by Board Notice 57 of 18 September 1987, consist of not more than three members who are not members of the professional conduct committee and of whom at least one member shall be a member of the council and one other member shall be a member of the professional board concerned, when such a board has been established.

(5) The chairperson of the committee of preliminary inquiry shall be appointed by the council, but if he or she is absent for any reason during the proceedings of the committee of preliminary inquiry, the committee shall appoint a chairperson from amongst themselves.

(6) The recommendations of the majority of the members of a committee of preliminary inquiry shall be the recommendations of such committee.

(7) A member of the inquiring body shall at all times remain objective. Should at any stage during a preliminary or disciplinary inquiry the objectivity of any member be infringed upon, due to whatever reason, such a member shall recuse him- or herself from such an inquiry.

Process to institute a preliminary or disciplinary inquiry

3.(1) A complaint of alleged unprofessional conduct on the part of a registered person shall be lodged with the registrar or designated official by way of -

- (a) a written explanation by the person lodging such complaint; or
- (b) the submission of any facts, circumstances, allegations or indications that in any way whatsoever may have come to the knowledge of the council; or
- (c) the reference of a record or portion thereof by a court of law as contemplated in section 23 of the Act or any other body.

(2) Any person who lodges a complaint referred to in subregulation (1) shall give a brief explanation of the act(s) or omission(s) giving rise to the complaint and be prepared to give verbal evidence in support of his or her complaint at a preliminary or disciplinary inquiry of the council or its committees if so required.

PROCEDURE AFTER RECEIVING A COMPLAINT

4. (1) The registrar, or designated official, shall investigate the complaint referred to the Council in terms of regulation 3(1).
- (2) The registrar or designated official, may at his or her discretion during his or her investigation of the complaint, if he or she deems it necessary -
- (a) consult with or seek further information regarding the complaint from any person or organisation, including the respondent and/or his or her employer; ,
 - (b) forward to the respondent copies of the documents received from the complainant and inform the respondent of the nature of such complaint and request a written explanation from him or her within 21 days and warn him or her that such explanation may be supplied to the professional conduct committee and the complainant and that it may be used in evidence during an investigation and a disciplinary inquiry which may follow;
 - (c) subpoena any person, who on reasonable grounds, is believed to be in possession of any information or a document, photo, computer record, contract, book, item, article, administrative or financial record, computer data, audio and/or video recording relevant to the complaint in order to make same available to the ,registrar or designated official before the date determined by the registrar or designated official in the subpoena for the purpose of investigating a complaint in terms of these regulations;
 - (d) seek legal advice or any other assistance to enable the registrar to perform his or her functions in terms of these regulations; and
 - (e) on the request of the complainant, and as far as the registrar is legally obliged to, furnish the complainant with a copy of the respondent's reply if the registrar or designated official received a response from the respondent, or in the absence of such request at his or her discretion.
- (3) Following an investigation subject to the provisions of subregulation (4) the registrar or designated official may -
- (a) if he or she is of the opinion that a further inquiry in terms of these regulations would not be appropriate, inform the complainant and the respondent, if applicable, accordingly;
 - (b) if he or she is of the opinion that the matter can be resolved amicably, procure a settlement between the complainant, respondent and/or any other parties involved;
 - (c) if he or she is of the opinion that the matter does not fall within the jurisdiction of the council, refer the matter to an appropriate body;
 - (d) if he or she is of the opinion that further inquiry in terms of these regulations would be appropriate, refer the matter to the committee of preliminary inquiry, with the relevant documentation; and
 - (e) if he or she is of the opinion that a disciplinary inquiry would be appropriate refer the matter directly to the professional conduct committee.

(4) In the event of a dispute between the registrar or designated official and the complainant and/or respondent, the complaint shall be referred to the committee of preliminary inquiry for further investigation.

Referral to the committee of preliminary inquiry

5. The committee of preliminary inquiry or the chairperson of such committee may -

(1) consult with or seek further information regarding the complaint from any person or organisation, including the respondent and/or his or her employer;

(2) forward to the respondent copies of the documents received from the complainant or inform the respondent of the nature of such complaint and request a written explanation from him or her within 21 days and warn him or her that such explanation may be supplied to the professional conduct committee and the complainant and may be used in evidence during an investigation and a disciplinary inquiry which may follow;

(3) subpoena or instruct the registrar to subpoena any person who on reasonable grounds is believed to be in possession of any information or a document, photo, computer record, contract, book, item, article, administrative or financial record, computer data and/or audio or video recording relevant to the complaint, in order to make same available to the committee of preliminary inquiry before the date determined by the registrar or designated official in the subpoena, for the purpose of investigating a complaint in terms of these regulations;

(4) seek legal advice or any other assistance to enable the committee to perform its functions in terms of these regulations; and

(5) on the request of the complainant, and in so far as the committee is legally obliged to, furnish the complainant with a copy of the respondent's reply if the registrar or designated official received a response from the respondent or, in the absence of such request, at his or her discretion.

6. The committee of preliminary inquiry shall take the following factors into consideration in deciding whether it would be appropriate to hold a preliminary or disciplinary inquiry:

(1) The nature of the complaint.

(2) The consequences of the alleged unprofessional conduct of the respondent for the complainant, the general public, council, the respondent, the profession and/or any other interested parties.

(3) The complexity of the unprofessional conduct.

(4) The penalty which the committee of preliminary inquiry anticipates could be imposed by the professional conduct committee.

(5) Any other matter not referred to above which, in the opinion of the committee of preliminary inquiry, warrants the holding of a preliminary or disciplinary inquiry in terms of the appropriate regulations.

7. The committee of preliminary inquiry, after having investigated the complaint, if necessary, and after having considered all relevant documentation in terms of regulation 4(3)(d), may -

- (1) if it is of the opinion that a complaint, even if it is proven, does not constitute unprofessional conduct, or that the complaint for any other reason should not be subjected to an inquiry, the committee shall take such steps as it may deem necessary and report such steps to the council;
- (2) if it is of the opinion that the matter can be resolved amicably, procure a settlement between the complainant, respondent and/or any other parties involved;
- (3) if it is of the opinion that the matter does not fall within the jurisdiction of the council, refer the matter to an appropriate body;
- (4) if it is of the opinion that a further preliminary inquiry be held, instruct the registrar to prepare the inquiry in terms of regulation 8; and
- (5) refer the matter for a disciplinary inquiry in terms of regulation 16.

Inquiry by the committee of preliminary inquiry

8. The Registrar shall, on receipt of the directive referred to in regulation 7(4) inform the respondent, by notice essentially in the form of Annexure A of -

- (1) the date, time and place of the preliminary inquiry;
- (2) his or her right to be present at the preliminary inquiry and to present his or her case to the committee of preliminary inquiry;
- (3) the fact that he or she is not entitled to legal representation at the preliminary inquiry; and
- (4) a written exposition containing -
 - (a) the nature of the complaint;
 - (b) the consequences of the alleged unprofessional conduct for the complainant, the general public, council, the respondent, the profession or any other interested party;
 - (c) the severity of the alleged unprofessional conduct;
 - (d) the penalty which the committee of preliminary inquiry anticipates could be imposed by the professional conduct committee; and
 - (e) any other matter not referred to above which, in the opinion of the committee of preliminary inquiry, warrants the holding of a preliminary or disciplinary inquiry in terms of the appropriate regulations.

9. The committee of preliminary inquiry, the complainant and the respondent may request the presence of any person or documentary evidence as is set out in regulation 5(3) which, on reasonable grounds, could assist in the assessment of the complaint during the preliminary inquiry and subpoena or request the registrar to subpoena the person(s) concerned.

10. During this stage neither party shall be entitled to legal representation.

11. The respondent shall be entitled to exercise one of the following three options:

(1) If he or she agrees with the contents of the exposition referred to in regulation 8(4), he or she shall complete and sign it in the presence of a commissioner of oaths and return it to the committee of preliminary inquiry before the date of the preliminary inquiry, in which case the said committee shall, on the date scheduled for such inquiry make a finding and impose a penalty in accordance with the exposition. Such penalty shall be limited to a penalty in terms of section 22(1)(a) of the Act.

(2) If he or she disagrees with the contents of the exposition attached to the notice and prefer to present his or her case to the committee of preliminary inquiry, he or she shall appear in person at the preliminary inquiry to -

- (a) hand in written submissions to the committee of preliminary inquiry; and/or
- (b) lead oral evidence; and/or
- (c) present argument;

in order to rebut the contents of the exposition.

(3) If he or she prefers that the complaint be adjudicated by the professional conduct committee, he or she shall request so in writing, in which case the matter shall on the date scheduled for such inquiry be referred to the professional conduct committee.

12. If the respondent fails to exercise any of the options in regulation 11, or fails to respond to the notice referred to in regulation 8, the committee of preliminary inquiry may refer the matter to the professional conduct committee.

13. No finding made or penalty imposed by the committee of preliminary inquiry in terms of an exposition shall constitute a previous conviction in any subsequent inquiry of a complaint against the respondent in terms of these regulations.

14. If a committee of preliminary inquiry finds that a complaint, even if it is proven, does not constitute unprofessional conduct or that the complaint for any other reason should not be subjected to an inquiry, the committee shall take such steps as it may deem necessary and report such steps to the council.

15.(1) If it is clear to a committee of preliminary inquiry that a disciplinary inquiry as envisaged in regulation 16 should be held into the conduct of the respondent, the committee shall direct the registrar or designated official as envisaged in regulation 16 to arrange the constitution of a professional conduct committee in terms of section 21(7) of the Act.

(2) No evidence gathered by the committee of preliminary inquiry, with the exception of the complaint referred to in regulation 3(1) and the information or explanation received in terms of regulation 4(2)(a) and(b), shall be submitted to a professional conduct committee.

Preparatory procedures to a disciplinary inquiry

16. On receipt of a directive referred to in regulation 7(5), 11(3) or 15(1), the registrar or designated official shall arrange for a disciplinary inquiry to be held and he or she shall submit the supporting documents in preparation of the charge sheet to the designated complainant.

17.(1) The registrar or designated official shall issue a summons essentially in the form of Annexure B hereto, addressed to the respondent informing him or her -

- (a) of the date, time and place of the disciplinary inquiry;
- (b) of the particulars of the complaint;
- (c) that he or she may reply in writing to the complaint set forth in the summons, but warning him or her at the same time that any such reply may be used as evidence in the disciplinary inquiry; and
- (d) what document, photo, computer record, contract, book, item, article, administrative or financial record or computer data relevant to the complaint should be brought to the inquiry.

(2) The summons referred to in subregulation (1), shall be served on the respondent at his or her residential address or forwarded to him or her at his or her postal address by registered letter, or confirmed fax or electronic mail, as the case may be, as entered into the register referred to in section 19 of the Act.

(3) A registered person duly notified in accordance with this regulation shall appear at the time and place specified in the summons unless before the disciplinary inquiry he or she has informed the registrar in writing by means of a personally signed letter that he or she pleads guilty to the complaint against him or her.

(4) Any person referred to in subregulation (3) who has been duly notified in accordance with this regulation, and who refuses or, without a reason acceptable to the inquiring body, fails to appear at the time and place specified in the summons, shall be guilty of an offence and liable, on conviction, to a fine not exceeding R1 000 or, in default of payment, imprisonment for a period not exceeding three months, or both such fine and such imprisonment.

Procedure at a disciplinary inquiry

18.(1) Every disciplinary inquiry shall be conducted by the council or by the professional conduct committee.

(2) If the summons referred to in regulation 17(1) has been served on or forwarded to the respondent as prescribed by regulation 17(2), the inquiring body may proceed with the disciplinary inquiry even if the respondent is not present.

(3) If the respondent is present, the designated complainant shall read out the complaint contained in the summons addressed to the respondent.

(4) (a) The respondent, if present, shall then be asked by the chairperson to plead guilty or not guilty to the complaint against him or her: Provided that if, before the disciplinary inquiry, the respondent has informed the registrar or designated official in writing by

means of a personally signed letter that he or she pleads guilty to the complaint, such plea of guilty may be entered as a plea in his or her absence.

- (b) If the respondent pleads not guilty, the inquiring body shall proceed to hear evidence pertaining to the complaint.
 - (c) If the respondent pleads guilty, it shall be for the inquiring body to decide whether or not it wishes to hear evidence regarding the complaint.
 - (d) If the respondent refuses or fails to plead directly to the complaint, or if the respondent is absent and the summons has been served on or forwarded to him or her as prescribed by regulation 17(2) and he or she has not informed the registrar or designated official in writing that he or she pleads guilty as referred to in paragraph (a), the chairperson shall make a note of such fact and enter a plea of not guilty on behalf of the respondent, and a plea thus entered shall have the same effect as if it had in fact been so pleaded.
- (5)
- (a) Where evidence pertaining to any complaint is to be adduced either because the respondent has pleaded not guilty or because the inquiring body has resolved that evidence is to be adduced, the designated Complainant shall be given the opportunity of stating his or her case and thereafter of leading evidence in support thereof.
 - (b) Should a complainant not be summoned as a witness, he or she may be granted the opportunity to address the inquiring body.
 - (c) Upon conclusion of leading such evidence referred to in subregulation (a), or the complainant's evidence in subregulation (b), the designated complainant's case shall be closed.
- (6)
- (a) If the respondent is present or is represented by a legal representative, he or she or his or her legal representative shall be given the opportunity of stating his or her case and thereafter of leading evidence in support thereof.
 - (b) If the respondent is neither present nor represented, any writing, statement, explanation or defence submitted by him or her as a result of a request in terms of regulation 4(b) or as a result of the summons issued in terms of regulation 17(1), or both, shall be read out to the inquiring body and received as evidence.
 - (c) After the respondent or his or her legal representative has led his or her evidence or, in the place thereof, his or her written submission, statement, explanation or defence has been read, his or her case shall be closed.
- (7) If the inquiring body deems it advisable that further evidence be adduced in order to enable it to arrive at a just decision, it may call further witnesses as it deems fit and may allow further evidence to be led either by the designated complainant or by the respondent or his or her legal representative, or by both parties, after their cases have been closed.
- (8) After all the evidence has been led, the designated complainant shall be allowed to address the inquiring body on the evidence and the legal position, and this shall be allowed whether or not the respondent has led evidence.

(9) Thereafter the respondent or his or her legal representative, if present, shall, likewise be allowed to address the inquiring body.

(10) If it deems fit, the inquiring body may allow the designated complainant to reply.

19.(1) Members of the inquiring body may, with the consent of the chairperson, put such questions as they may consider relevant to witnesses while they are giving evidence or are under cross-examination.

(2) (a) (i) After a witness has given evidence the opposing party or his or her representative shall be entitled to cross-examine such witness.

(ii) Likewise, the respondent if he or she prefers to give evidence and any witness called by him or her on his or her behalf shall, after he or she has given evidence, be subject to cross-examination by the designated complainant.

(b) If evidence has been led, the person who led the evidence shall be entitled to re-examine the witness after cross-examination, but this re-examination shall be confined to matters arising from cross-examination or from questions put by the chairperson or members of the inquiring body.

20. If the respondent is present and the complainant is not present but has filed an affidavit, the respondent or his or her legal representative may reply to the affidavit so as to enable the inquiring body to deal with the matter as may be necessary.

21.(1) All oral evidence shall be given under oath or on affirmation and the inquiring body may decline to admit as evidence a document where the person who gives evidence regarding the document is not present for cross-examination or who declines to submit thereto.

(2) (a) The statement which a complainant or witness not present in person, makes in support of a complaint shall be in the form of an affidavit, but the respondent may object to such evidence if he or she is not given the opportunity to cross-examine such witness: Provided that, where such statement or complaint has been based on the record of a lawfully constituted court, a copy of such record shall at face value be accepted as evidence if it has been certified to be a true copy or if acceptance thereof has been agreed by both parties.

(b) If it is practicable and appears just, the inquiring body may postpone the inquiry in order to subpoena, for the purpose of cross-examination, the witnesses whose evidence appears in the said court.

22.(1) Upon the conclusion of the case, the inquiring body shall deliberate thereon in the absence of any other party attending the hearing.

(2) If the respondent is found not guilty on the charge against him or her, he or she shall be notified accordingly as soon as reasonably possible.

(3) If the inquiring body has determined, regarding a complaint, that sufficient facts have been proved to its satisfaction to support such complaint, it shall decide whether the conduct that is the

subject of the complaint so supported, constitutes unprofessional conduct, and it shall announce its finding in this regard.

(4) After a finding referred to in subregulation (3) has been announced or after the respondent has pleaded guilty and the inquiring body has resolved that no evidence shall be led, the designated complainant shall adduce evidence of previous convictions of the respondent under the Act, if any such convictions have been recorded previously against him or her.

- (5) (a) (i) Proof of previous convictions under the Act shall be adduced by means of a certificate to be issued under the hand of the registrar.
- (ii) Such certificate shall specify the complaint brought against the respondent at the time, as well as the finding, the date thereof and the penalty imposed.
- (b) The respondent shall be entitled to challenge the correctness of such certificate, in which case a certified copy of the minutes of such previous disciplinary inquiry shall be produced or, if such minutes have been destroyed, a certified copy of the relevant extract from the register concerned, referred to in section 19 of the Act.

(6) The chairperson shall afford the designated complainant the opportunity of making a representation in regard to the imposition of a suitable penalty.

(7) The chairperson shall then afford the respondent or his or her legal representative, if present, the opportunity of addressing the inquiring body in mitigation of the penalty to be imposed and of leading or giving evidence in mitigation.

(8) After the inquiring body has again deliberated in the absence of any other party attending the hearing, it shall impose the penalty on which it decides.

(9) Where the professional conduct committee finds a respondent guilty, it shall report its finding to the council and arrange for the requirements of subregulation (10) to be complied with.

- (10) (a) If a penalty is imposed on a registered person in terms of section 22(1) of the Act, such penalty shall be put in writing and signed by the chairperson, and the respondent and complainant informed thereof by the Registrar.
- (b) The registrar shall, after the registered person has been informed of his or her penalty, publish in the Government Gazette the name of such person and the penalty so imposed

23.(1) If recommendations regarding complaints against more than one respondent are submitted to the chairperson of the professional conduct committee as referred to in regulation 15 (I), and the chairperson in his or her discretion is of the opinion that -

- (a) a duplication of disciplinary inquiries may be avoided or limited by a simultaneous hearing of two or more such respondents; and
- (b) none of the respondents would be detrimentally affected by such a simultaneous disciplinary inquiry, he or she may direct that the complaint or complaints against such respondents, be heard simultaneously.

(2) The chairperson, at a simultaneous disciplinary inquiry referred to in subregulation (I), shall apply the provisions of regulations 18 to 22 on the basis that every reference in it to the respondent

or his or her legal representative shall be applied alternately on the respondents in the order determined by the chairperson.

- (3) (a) Any respondent may, at any time prior to or during a simultaneous disciplinary inquiry, request a separate hearing.
- (b) If the inquiring body is of the opinion that the respondent concerned has indicated good reasons for such separation of the disciplinary inquiry, the proceedings relating to that respondent shall be suspended and the respondent concerned shall be heard separately by an inquiring body constituted of other members.
- (4) If the inquiring body deems it advisable, separation of a disciplinary inquiry referred to in subregulation (3) may take place on the basis that the remaining two or more respondents may be heard anew together.

- 24.(1)** (a) In case of common relevancy of facts or circumstances between two or more disciplinary inquiries, no member of any inquiring body shall serve at more than one such disciplinary inquiry.
- (b) If such commonality is revealed during the course of a disciplinary hearing and it appears further that the same member is serving at more than one such disciplinary inquiry that have already commenced and the circumstances are such that he or she may possibly be influenced by the proceedings at one disciplinary inquiry concerning his or her view of another, the proceedings concerned at such disciplinary inquiry shall take place anew before an inquiring body consisting of different members.
- (2) The provisions of this regulation shall not be interpreted so as to preclude a simultaneous hearing referred to in regulation 23.

- 25.(1)** The proceedings of a disciplinary inquiry shall be accessible to the public: Provided that -
- (a) any decision of the inquiring body with regard to any matter relating to or arising during an inquiry may be taken in the absence of any other party attending the hearing;
- (b) any evidence submitted during a disciplinary inquiry, upon submission of valid reasons, may, at the discretion of the inquiring body, be heard in the absence of any other party attending the hearing; and
- (c) upon submission of valid reasons, the inquiring body may, at its discretion, direct that no person shall, at any time and in any manner, publish any information that is likely to reveal the identity of a specific person, excluding that of the respondent.
- (2) Any person who contravenes or fails to obey a directive issued in terms of subregulation (1) shall be guilty of an offence and liable, on conviction in a court of law, to a fine not exceeding R1,000.

Subpoena

- 26.(1)** A subpoena issued by the registrar or a committee of preliminary inquiry in terms of the regulations, to a person to appear as a witness at any investigation or inquiry, or to produce a book,

document or record at any investigation or inquiry shall be essentially in the form of Annexure C to these regulations.

(2) A subpoena referred to in subregulation (1) shall be served on the witness at his or her residential or working address or forwarded to him or her at his or her residential, postal or working address by prepaid registered letter or confirmed fax or electronic mail.

(3) The fees payable to a witness subpoenaed in terms of subregulation (1) shall be in accordance with the tariff applicable to criminal cases in a magistrate's court.

(4) If witnesses are subpoenaed at the request of the respondent, the registrar shall require from the respondent a deposit that is sufficient to cover the expenses involved.

Repeal

27.(1) Regulations made under the Social Work Act, 1978, published as Government Notice R. 3026 in Government Gazette 12919 of 28 December 1990, as amended by Government Notices R. 3214 in Government Gazette 14225 of 27 November 1992 and R. 1516 in Government Gazette 15954 of 9 September 1994 are repealed.

(2) A disciplinary inquiry in terms of the regulations referred to in subregulation (1) which started immediately prior to the commencement of these regulations before the council or a disciplinary committee of the council constituted in terms of regulation 2 of those regulations shall be conducted and concluded in terms of the procedures prescribed by those regulations as if they were not repealed.

Commencement

28. These regulations shall come into operation on the date of publication thereof.

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FORMS

Annexure A

Regulations regarding the conducting of inquiries into alleged unprofessional conduct

**FORM OF NOTICE TO A RESPONDENT TO APPEAR BEFORE A COMMITTEE OF PRELIMINARY
INQUIRY IN TERMS OF REGULATION 8 OF THE REGULATIONS REGARDING THE CONDUCTING OF
INQUIRIES INTO ALLEGED UNPROFESSIONAL CONDUCT**

To:
..... (name and address of respondent)

You are hereby instructed to appear before the Committee of Preliminary Inquiry of the South African Council for Social Service Professions at.....(place) on the.....(day) of
..... (month) 20 at (time).

You are hereby informed of your right to present your case to the above-mentioned committee. A copy of the exposition referred to in regulation 8(4) is attached hereto as **Annexure A**.

In terms of regulations 9 and 10 of the *Regulations regarding the conducting of inquiries into alleged unprofessional conduct*, you may request the presence of any person, or production of any documentary evidence, or any evidence, which on reasonable grounds, could assist in the assessment of the complaint, and request the Registrar to subpoena the person(s) concerned. You are, however, not entitled to legal representation.

Should you desire your letter dated(or any further written communication you may wish to submit) to constitute your explanation or defence, please notify the Registrar of the South African Council for Social Service Professions to that effect not later than You are hereby warned that any such communication may be used as evidence in the preliminary inquiry or any other subsequent disciplinary inquiry.

In your own interest you are advised to appear at the preliminary inquiry, unless before the date thereof you plead guilty to the complaint as set out in the exposition attached hereto as **Annexure A**, by signing the said document in the presence of a Commissioner of Oaths and forwarding it to the Registrar.

Please note that if you sign the exposition, the penalty that could be imposed, is in terms of regulation 11(1) limited to a reprimand or a caution.

Given under my hand this day of 20

.....
REGISTRAR

Annexure B

REGULATIONS REGARDING THE CONDUCTING OF INQUIRIES INTO ALLEGED UNPROFESSIONAL CONDUCT**FORM OF SUMMONS TO A RESPONDENT TO APPEAR BEFORE THE PROFESSIONAL CONDUCT COMMITTEE IN TERMS OF REGULATION 17 OF THE REGULATIONS REGARDING THE CONDUCTING OF INQUIRIES INTO ALLEGED UNPROFESSIONAL CONDUCT**

To:

..... (name and address of respondent)

You are hereby instructed to appear before the South African Council for Social Service Professions or a Professional Conduct Committee of the South African Council for Social Service Professions at.....(place) on the.....(day) of (month) 20 at (time), when a disciplinary inquiry will be held to inquire into the following complaint which has been lodged against you:

.....

.....

You are further instructed to bring with you in terms of regulation 17(l)(d) the following:

.....

.....

In terms of section 21(6) of the *Social Service Professions Act, 1978* (Act 110 of 1978), you are entitled, either in person or through your legal representative,* to answer to the complaint at the disciplinary inquiry and be heard in your defence. You are entitled to call witnesses, provided you secure their presence at the inquiry, unless prior arrangements with the Registrar in terms of Regulation 26 to subpoena such witnesses, have been made.

If you fail to appear at the disciplinary inquiry without an acceptable reason you will be guilty of a contravention of regulation 17(4) of the *Regulations regarding the conducting of inquiries into alleged unprofessional conduct* read together with section 28(3) of Act 110 of 1978, and on conviction will be liable to a fine not exceeding R1000 or to imprisonment for a period not exceeding three months. In your absence, the inquiring body may proceed with the disciplinary inquiry and make a finding

Should you desire your letter dated(or any further written communication you may wish to submit) to constitute your explanation or defence, please notify the Registrar of the South African Council for Social Service Professions to that effect not later than You are hereby warned that any such communication may be used as evidence in the disciplinary inquiry.

In your own interest you are advised to appear at the disciplinary inquiry, unless before the date thereof you plead guilty to the complaint in a letter signed by you personally and addressed to the registrar.

Given under my hand this day of 20

.....
REGISTRAR

* Legal representative means an advocate or an attorney.

Annexure C

REGULATIONS REGARDING THE CONDUCTING OF INQUIRIES INTO ALLEGED UNPROFESSIONAL CONDUCT**FORM OF SUBPOENA TO APPEAR BEFORE:**

1. The South African Council for Social Service Professions;
2. The Registrar or designated official of the Council;
3. A Committee of Preliminary Inquiry of the Council; or
4. The Professional Conduct Committee of the Council

To:

..... (name and address of respondent)

You are hereby instructed to appear before the of theof Council, established in terms of the Social Service Professions Act, 1978 (Act 1 10 of 1978), at(place) on the.....(day) of (month) 20 at (time), to give evidence regarding and you are directed to bring with you (specify the book, document or record)

In the absence of sufficient cause, failure to comply with this subpoena shall constitute an offence and the offender shall be liable on conviction to a fine as provided for in section 51(2) of the Magistrate's Courts Act, 1944 (Act 32 of 1944).

Given under my hand this day of 20

.....
REGISTRAR

REGULATIONS

Regulations relating to appeal against refusal, penalty or removal from the Register

(Government Notice No R. 1698 published in Government Gazette 19644 of 31 December 1998)

EXTRACT

GOVERNMENT NOTICES
GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF WELFARE

No. R. 1698

31 December 1998

**REGULATIONS RELATING TO APPEAL AGAINST REFUSAL, PENALTY, OR
REMOVAL FROM THE REGISTER**

Extracted from the Regulations relating to election of members of the SA Council for Social Service Professions; quorum for and procedure at the meetings of the Council and the Executive Committee; accounting records; financial statements; appeal against refusal, penalty or removal from the Register (Government Notice No R. 1698 published in Government Gazette 19644 of 31 December 1998)

Regulations made under the Social Work Act, 1978, published as Government Notice R. 698 in Government Gazette 7525 of 3 April 1981, as amended by Government Notices R.706 in Government Gazette 9662 of 29 March 1985, R. 947 in Government Gazette 13876 of 27 March 1992, R. 1655 in Government Gazette 16782 of 27 October 1995 and R. 1698 in Government Gazette 19644 of 31 December 1998

SCHEDULE

Definitions

1. In these regulations, unless the context otherwise indicates –

“*appeal committee*” means an appeal committee appointed in terms of section 25;

“*member*” of “*members*” means a member or members of the council;

“*register*” shall mean the register referred to in section 19(1);

“*section*” means a section of the Act;

“*the Act*” means the Social Work Act, 1978 (Act 110 of 1978);

and any word to which a meaning has been assigned in the Act shall bear that meaning.

Appeal against refusal, penalty, or removal from register

42. (1) An appeal under section 25(1) against a decision of the council or committee shall be noted by the delivery to the registrar, for submission to the Minister, a notice setting out clearly and succinctly the ground, whether of fact or law, on which the appeal is based.

(2) The registrar shall submit such notice to the Minister immediately on receipt thereof and shall transmit a copy thereof, together with a copy of the proceedings in question, to the person who presided at the meeting of the council or committee at which the decision appealed against was taken.

- (3) The said person shall, within 14 days thereafter, furnish the registrar with a statement, in writing, setting out –
- (a) the fact the council or committee found to be proved at such proceedings;
 - (b) the reasons of the council or committee for any finding of fact specified in the appellant's notice of appeal as a finding of fact appealed against; and
 - (c) the reasons of the council or committee for any ruling on any question of law or as to the admission or rejection of evidence specified as a ruling appealed against.
- (4) The registrar shall, within 14 days of the date of the appointment of the appeal committee appointed to hear the appeal –
- (a) transmit to the chairman of the appeal committee –
 - (i) the notice of appeal and statement referred to in subregulation (1) and (3); and
 - (ii) the minutes of such proceedings,
 - (b) transmit to each one of the other members of the appeal committee concerned a copy of the said notice of appeal and statement and, if applicable, also a copy of the minutes of such proceedings; and
 - (c) Supply the appellant with a copy of the statement referred to in sub-regulation (3).
- (5) (a) The registrar shall notify the appellant in writing of the date, time and place fixed by the appeal committee for the hearing of the appeal.
- (b) Such notification shall not less than 30 days before the date so fixed be posted by registered post to the appellant.
- (6) Subject to the provisions of section 25(3), the appeal committee shall decide the appeal of the said notice of appeal, statement and minutes of the said proceedings.
- (7) No person whose presence is not necessary shall, except by leave of the appeal committee, be present at the hearing of any appeal under section 25.
- (8) The decision of the majority of the members of the appeal committee shall be the decision of the committee.
- (9) The registrar shall by direction of the chairman of the appeal committee notify the appellant in writing of the decision of the appeal committed.
- (10) The registrar shall notify the council that an appeal has been noted against a decision of the council or committee and of the decision of the appeal committee.

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SOCIAL WORK

**Rules relating to the course of conduct to be followed by social workers in
the practicing of their profession**

(CODE OF ETHICS)

(General Notice 292 of 1986 in Government Gazette 10205 of 25 April 1986)

GENERAL NOTICES

Department of National Health and Population Development

No. 292

25 April 1986

RULES RELATING TO THE COURSE OF CONDUCT TO BE FOLLOWED BY SOCIAL WORKERS IN THE PRACTISING OF THEIR PROFESSION (CODE OF ETHICS)

Rules made under Social Work Act, 1978, published as General Notice 292 of 1986 in Government Gazette 10205 of 25 April 1986.

In terms of section 27(1A)(a) of the Social Work Act, 1978 (Act 110 of 1978), the S A Council for Social Work hereby makes the rules set out in the Schedule hereto.

SCHEDULE

Definitions

1. In these rules "the Act" shall mean the Social Work Act, 1978 (Act 110 of 1978), and any expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context otherwise indicates -

"*client*" shall mean any person who receives the professional attention of a social worker;

"*colleague*", in relation to a social worker, shall mean any other person also registered as a social worker;

"*community*" a functionally related aggregate of people who lives in a particular area at a particular time, from the social structure and exhibit an awareness of their distinctiveness and own identity as a group;

"*employer*" shall mean any person whosoever employs or provide work for any person and remunerates or expressly or tacitly undertakes to remunerates *him or her*, or who permits any person in any manner to assist *him or her* in the carrying on or the conducting of *his or her* business;

"*social work institution*" an employer who is a social worker or who employs social workers to render social work services.

The course of conduct to be followed by social workers

2. For the purpose of section 27(1A)(a), the conduct set forth in rules 3 to 9 of these Rules shall be deemed to be the course of conduct to be followed by a social worker in the practising of *his or her* profession.

General approach

3. The general approach in this course of conduct is based on the ethics that -
- (a) every human being has a unique value and potential, irrespective of origin, ethnicity sex, age, beliefs, socio-economic and legal status;
 - (b) each individual has the right to the fulfilment of *his or her* innate and acquired skills;
 - (c) the social worker has a responsibility to devote *his or her* professional knowledge and skills scientifically for the benefits of each individual, group, community and mankind.
 - (d) the social worker has a primary obligation to render services professionally;
 - (e) the social worker shall recognise and take into account *his or her* personal and professional limitations.

Conduct that concerns the profession

4. Conduct that concerns the social work profession shall mean, *inter alia*, for a social worker to -
- (a) scientifically evaluate and support the profession in order to enhance and raise the dignity and integrity of the profession;
 - (b) challenge unacceptable social work practices and uphold those that are acceptable;
 - (c) protect the profession from unfounded criticism which would bring it into disrepute;
 - (d) remain actively involved with the formulation, development, determination and implementation of professional policy;
 - (e) base social work practices on scientific knowledge, keep abreast of relevant developments and participate in research.

Conduct that concerns a client

5. Conduct that concerns a client shall mean, *inter alia*, for a social worker to -
- (a) recognise the uniqueness of each client;
 - (b) maintain a professional relationship with the client;
 - (c) acknowledge the right to self-determination of the client;
 - (d) take into account the client's rights, preferences and objectives when structuring service-rendering, even in the absence of the client;
 - (e) strive towards the client's optimal use of *his or her* abilities;
 - (f) respect the client's right to decide whether or not to co-operate with the social worker, even in the case of a statutory order;
 - (g) maintain the client's right to confidentiality;
 - (h) not refuse service-rendering to a client, irrespective of whether or not the client is in a position to pay the fees for such services;
 - (i) inform the client of and prepare *him or her* for any decision regarding the termination of service rendering.

Conduct that concerns a colleague or another professional person

6. Conduct that concerns a colleague or another professional person shall mean, *inter alia*, for a social worker to -

- (a) respect and honour the training and service-rendering of colleagues and other professional persons;
- (b) respect the trust that exists between colleagues;
- (c) resolve criticism of and differences between colleagues in terms of the authority structure of the employer(s);
- (d) protect and defend colleagues against unfair criticism;
- (e) promote opportunities for the exchange of knowledge and experience between colleagues and other professional persons.

Conduct that concerns an employer

7. Conduct that concerns an employer shall mean, *inter alia*, for a social worker to acknowledge and honour *his or her* employer's authority as far as it is compatible with this course of conduct.

Conduct that concerns a social work institution

8. Conduct that concerns a social work institution shall mean, *inter alia*, for a social worker to co-operate with those social work institutions whose policies, procedures and operations are directed towards adequate service-rendering and encouragement of professional practices consistent with this course of conduct.

Conduct that concerns the community

9. Conduct that concerns the community shall mean, *inter alia*, for a social worker to -

- a) enhance and promote service-rendering to the community under all circumstances by utilising and developing resources in the community;
- b) have the responsibility to be aware of, initiate, develop and change social policy consistent with professional practices.

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Rules relating to the course of conduct to be followed by social auxiliary workers in the practicing of their profession

(CODE OF ETHICS)

(General Notice 136 of 1991 in Government Gazette 113620 of 15 November 1991)

BOARD NOTICE

South African Council for Social Work

No. 136

15 November 1991

**RULES RELATING TO THE COURSE OF CONDUCT TO BE FOLLOWED BY SOCIAL
AUXILIARY WORKERS IN THE PRACTISING OF THEIR PROFESSION**

Rules made under Social Work Act, 1978, published as Board Notice 136 in Government Gazette 13620 of 15 November 1991.

In terms of section 27(1A)(a) of the Social Work Act, 1978 (Act 110 of 1978), the S A Council for Social Work hereby makes the rules set out in the Schedule hereto.

SCHEDULE

The Rules relating to the course of conduct to be followed by social workers in the practising of their profession as promulgated by General Notice 292 of 25 April 1986, shall *mutatis mutandis* be applicable to social auxiliary workers.

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Rules relating to the acts or omissions of a social worker, a social auxiliary worker or a student social worker which shall constitute unprofessional or improper conduct

(Government Notice 54 published in Government Gazette 14526 of 15 January 1993)

GOVERNMENT NOTICES
GOEWERMENTSKENNISGEWINGS

Department of National Health and Population Development

No. R. 54

15 January 1993

**RULES RELATING TO THE ACTS OR OMISSIONS OF A SOCIAL WORKER, A SOCIAL
AUXILIARY WORKER OR A STUDENT SOCIAL WORKER WHICH SHALL CONSTITUTE
UNPROFESSIONAL OR IMPROPER CONDUCT**

Rules made under Social Work Act, 1978, published as Government Notice R. 164 in Government Gazette 11133 of 12 February 1988, as amended by Government Notices R. 1641 in Government Gazette 11454 of 12 August 1988, R. 950 in Government Gazette 13193 of 3 May 1991, R. 2713 in Government Gazette 13622 of 15 November 1991 and R. 54 in Government Gazette 14526 of 15 January 1993.

The South African Council for Social Work has, in terms of section 27(1)(c) of the Social Work Act, 1978 (Act 110 of 1978), with the approval of the Minister of National Health, made the rules contained in the schedule hereto.

SCHEDULE

Definitions

1. In these rules "the Act" means the Social Work Act, 1978 (Act 110 of 1978), and any expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context otherwise indicates-

"*advertisement*" means any form of communication, public appearance, or introduction which has or may have the effect, directly or indirectly, of a social worker in *his or her* capacity as such, or *his or her* practice or *his or her* services or the efficiency thereof being publicized, or clients being solicited, and "advertise" has a corresponding meaning;

"*client*" means an individual, family, group or community receiving the attention of a social worker in *his or her* professional capacity;

"*colleague*", in relation to a social worker, means any other social worker;

"*employer*" means any person who employs or provides work to a social worker in *his or her* professional capacity and who remunerates *him or her* or expressly or tacitly undertakes to remunerate *his or her*, or who permits a social worker to assist *his or her* in any manner in the carrying on or the conducting of *his or her* practice;

"*partne*r" means a colleague or a person referred to in rule 7(3), with whom a social worker enters into an agreement jointly to conduct a practice to their mutual benefit and "partnership" has a corresponding meaning;

“*profession*” means the social work profession.

Acts or omissions deemed to be unprofessional or improper

2. Subject to the provisions of section 21(1) of the Act, it is hereby determined that the acts or omissions set out in these Rules shall be deemed to be unprofessional or improper conduct on the part of a social worker.

Behaviour detrimental to the profession

3. The following acts or omissions of a social worker shall be deemed to be detrimental to the profession and to constitute unprofessional or improper conduct:

- (1) The negligent performance of *his or her* professional duties.
- (2) The execution of *his or her* professional duties in a manner which does not comply with general accepted standards of practicing the profession.
- (3) Behaviour which, with due regard to the prestige, status and dignity of the profession, is detrimental to *his or her* position as a social worker or to the profession as such.
- (4) Being guilty of or participating in or associating with dishonesty in the execution of *his or her* professional duties.
- (5) The offering of direct or indirect compensation or any other form of incentive whatsoever for the referral of clients.
- (6) The receiving of, or agreeing to receive, direct or indirect compensation or any other form of incentive for the purpose referred to in sub-rule (5).
- (7) The sharing of money received for professional services with any person who contributes or contributed to such services, unless such person is a partner or such sharing of money is reasonably commensurate with such person’s contribution to the services rendered.
- (8) Refusing without sufficient cause, to render professional services which *he or she* took on or for which *he or she* was employed.
- (9) The employment of any person as a social worker, student social worker or social auxiliary worker, knowing that such person has not been registered in terms of the Act;
- (10) Failure to refer a client to a colleague, or another person or body with specialised knowledge in a field, should the matter fall so far outside *his or her* field of training or experience that such referral could in the circumstances be reasonably considered necessary.
- (11) Failure to keep a record of acts performed, money managed, and fees charged in all matters dealt with by *him or her* in *his or her* capacity as a social worker.

Behaviour towards clients

4. The following acts or omissions of a social worker regarding behaviour towards clients, shall be deemed to constitute unprofessional or improper conduct:

- (1) The divulgence of information, which came to *his or her* attention in the course of the execution of *his or her* professional duties, concerning a client, or a deceased person who during *his or her* life was a client except-
- (a) to the extent that the divulgence is in the client's interest, or is necessary for the proper management of the case of the client concerned or of other cases; or
 - (b) if the social worker is ordered to do so by a competent court or is otherwise legally bound to do so: Provided that if disclosure of such information is not part of a recognised statutory function of the social worker in question, that the information may be divulged only under protest; or
 - (c) with the express consent of the client or if the client cannot give *his or her* consent-
 - (i) *his or her curator personae*, or
 - (ii) in the case of a minor, *his or her* parent or guardian; or
 - (iii) the surviving spouse, or if there is no surviving spouse, a major child of a deceased client or, if there is no major child, an executor appointed by the Master of the Supreme Court.
- (2) The administration of a client's money in an inefficient, irresponsible or negligent manner.
- (3) The receipt of any bribe, or agreement to receive any bribe, in connection with any matter which is directly or indirectly related to *his or her* professional duties or practice.
- (4) Discrimination against a client on account of social or economic status, sex, race, religion, language or nationality.
- (5) The performance of an act belonging to a professional field other than social work, including the performing of psychometric tests for purposes of diagnosis and therapy, unless *he or she* is properly qualified therefor or legally authorised thereto.
- (6) The preventing of a client from procuring advice or assistance from another person who is authorised by law to advise or treat persons concerning their social welfare.

SUPERSESSION

5. The following acts or omissions of a social worker regarding supersession, shall be deemed to constitute unprofessional or improper conduct:

- (1) The acceptance of the client of a colleague unless-
- (a) the said colleague is not available and the required services cannot be kept in abeyance, or
 - (b) the colleague consents thereto or refuses *his or her* consent, or
 - (c) the colleague's services have been terminated by the client without encouragement from the social worker: provided that the mere explanation to a prospective client that services may not be rendered to *his or her* unless and until he has terminated the services of the colleague shall not be regarded as encouragement.

(2) The fact that a social worker has previously also been involved in the management of the case of a colleague's client shall not detract from the provisions of sub-rule (1).

Behaviour towards colleagues and other professional persons

6. The following acts or omissions of a social worker regarding behaviour towards colleagues and other professional persons, shall be deemed to constitute unprofessional or improper conduct:

(1) Direct or indirect criticism on the work of a colleague, or a professional person *he or she* has dealt with in the execution of *his or her* duties as a social worker, except in so far as it may be required for the proper execution of *his or her* duties, or in so far as it may be legally required from *him or her*.

(2) The casting of reflections directly or indirectly upon the probity, professional reputation, skill, competence, knowledge or qualification of a colleague or of such other professional person.

Behaviour towards employers and partners

7. The following acts or omissions of a social worker regarding behaviour towards employers and partners, shall be deemed to constitute unprofessional or improper conduct:

(1) The breach of *his or her* contract of service, or behaviour that would justify *his or her* summary dismissal at common law.

(2) Practicing or carrying on from *his or her* offices any business, trade, work or profession apart from the social work profession, without the prior written consent of the council or contrary to a condition, if any, which such a consent is subject to.

(3) Practicing in partnership with a person who is not registered in terms of the Act, or sharing *his or her* office with such a person, except with the prior written consent of the council, and subject to such conditions as the council may determine.

Advertisement

8. The advertising of *his or her* services by a social worker contrary to the following requirements shall be deemed to constitute unprofessional or improper conduct:

(1) No advertisement may contain or imply any comparison between the services, knowledge, skill or efficiency of the advertising social worker and the services, knowledge, skill or efficiency of a colleague, any other professional person, or a welfare body.

(2) No advertisement may contain any element of promotion of the person of the social worker, the quality of the services which *he or she* renders, *his or her* skills or *his or her* efficiency.

Display of certificate

9. The omission of a social worker who practices such a profession to display conspicuously in *his or her* office the registration certificate issued to *him or her* in terms of the Act shall be deemed to constitute unprofessional or improper conduct.

Social auxiliary workers and student social workers

10. These rules shall mutatis mutandis apply to social auxiliary workers and student social workers.

Repeal

11. Government Notices R. 164 of 12 February 1988, R. 1641 of 12 August 1988, R. 950 of 3 May 1991 and R. 2713 of 15 November 1991 are hereby repealed.

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CHILD AND YOUTH CARE WORK

Rules relating to the acts or omissions which constitute unprofessional or improper conduct of child and youth care workers and rules relating to conduct of child and youth care workers practising at professional and auxiliary levels

(Government Notice No 833 published in Government Gazette 38128 of 31 October 2014)

PART A

Rules relating to the acts or omissions of child and youth care workers at professional and auxiliary levels which constitute unprofessional or improper conduct

GOVERNMENT NOTICES
GOEWERMENTSKENNISGEWINGS

No. R. 833

31 October 2014

SOCIAL SERVICE PROFESSIONS ACT, 1978 (ACT NO, 110 OF 1978)

**RULES RELATING TO ACTS OR OMISSIONS WHICH CONSTITUTE UNPROFESSIONAL OR
IMPROPER CONDUCT OF CHILD AND YOUTH CARE WORKERS AND RULES RELATING THE
CONDUCT OF CHILD AND YOUTH CARE WORKERS AT PROFESSIONAL AND AUXILIARY
LEVELS**

The South African Council for Social Service Professions, after consultation with the Professional Board for Child and Youth Care Work and with the approval of the Minister, Bathabile Olive Dlamini, Minister responsible for social development, under section 27(a)(a) and (b) of the Social Service Professions Act, 1978 (Act No. 110 of 1978), made the rules in the Schedule.

PART A

RULES RELATING TO ACTS OR OMISSIONS OF CHILD AND YOUTH CARE WORKERS AT PROFESSIONAL AND AUXILIARY LEVELS WHICH CONSTITUTE UNPROFESSIONAL OR IMPROPER CONDUCT

SCHEDULE

Definitions

1. In these Rules any expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context otherwise indicates-

“advertisement” means any form of communication, public appearance, or introduction which has or may have the effect, directly or indirectly, of a child and youth care worker’s capacity as such, or practice or services or the efficiency thereof being publicised, or clients being solicited;

“client” means a child or young person, family, group or community, receiving the professional services of a child and youth care worker;

“colleague”, in relation to a child and youth care worker means any other social service professional;

“community” means a functionally related aggregate of people who live in a particular geographic area at a particular time, form a social structure and exhibit an awareness of their distinctiveness and own identity as a group;

“employer” means a person who employs, or provides work to, a child and youth care worker and who remunerates, or expressly or tacitly undertakes to remunerate that child and youth care worker, or who permits a child and youth care worker to assist him or her in any manner in the carrying on or the conduct of his or her practice;

“partner” means a colleague with whom a child and youth care worker enters into an agreement jointly to conduct a practice to their mutual benefit and *“partnership”* has a corresponding meaning;

“profession” means the child and youth care profession; and

“the Act” means the Social Service Professions Act, 1978 (Act No. 110 of 1978).

Scope of application

2. These Rules apply to child and youth care workers at the professional and auxiliary levels.

Acts or omissions that constitute unprofessional or improper conduct

3. Subject to section 21(1) of the Act, the acts or omissions set out in these Rules constitute unprofessional or improper conduct on the part of a child and youth care worker. The acts and omissions set out in these Rules do not constitute an exhaustive list of unprofessional or improper conduct.

Conduct detrimental to profession

4. The following acts or omissions of a child and youth care worker are detrimental to the profession and constitute unprofessional or improper conduct:

- (a) The execution of his professional duties in a manner which does not comply with generally accepted standards of child and youth care work;
- (b) conducting oneself in a manner which undermines the prestige, status and dignity of the profession;
- (c) being found guilty of committing an offence involving dishonesty or committing an act of dishonesty in the execution of professional duties;
- (d) refusing, without sufficient reason, to render professional services within the regulated scope of practice which a child and youth care worker undertook to provide, or for which the child and youth care worker was employed;
- (e) employing a person as a child and youth care worker or a student child and youth care worker knowing that such person is not registered in terms of the Act;
- (f) failure to refer a client to a colleague, or another person or body with specialised knowledge in a field, where the matter falls outside the child and youth care worker's scope of practice, field of training or experience or where such referral would in the circumstances, be reasonably considered necessary;
- (g) failure to keep a record of acts performed, services rendered, money managed and fees charged in all matters dealt;
- (h) the misrepresentation of professional qualifications, affiliations, level of practice or competencies; and
- (i) the offering of direct or indirect compensation or any other form of incentive to a person for the referral of clients.

Conduct towards clients

5. The following acts or omissions of a child and youth care worker in relation to clients constitute unprofessional or improper conduct:

(1) The disclosure to a third party of information which concerns the client and which information was obtained in confidence from the client or a deceased person who was a client, in the course of the execution of a child and youth care worker's duties, unless-

- (a) The disclosure of the information is in the client's interest, or is necessary for the proper management of the case of the client concerned or of other cases;
- (b) the child and youth care worker is ordered to disclose the information by a competent court or is otherwise legally bound to do so;
- (c) the child and youth care worker discloses the information with the written consent of the client or if the client cannot give his or her consent, the consent obtained from -
 - (i) the client's *curator personae*, or

- (ii) in the case of a minor, the minor's parent or guardian;
 - (iii) in the case of a deceased client, the surviving spouse; or
 - (iv) if there is no surviving spouse, a major child of a deceased client or, if there is no major child, an executor appointed by the Master of the Supreme Court.
- (2) The administration of a client's money in an irresponsible or negligent manner.
- (3) The receipt of any bribe, or agreement to receive a bribe, in connection with any matter which is directly or indirectly related to the professional duties or practice of the child and youth care worker.
- (4) Discrimination against a client on the basis of social origin or economic status, sex, race, religion, sexual orientation, disability, culture, language, nationality or history.
- (5) The performance of an act belonging to a professional field other than that of child and youth care work, including the performing of psychometric tests for purposes of diagnosis and therapy, unless the child and youth care worker is properly qualified or legally authorised, to perform the act.
- (6) Preventing of a client from procuring advice or assistance from another person who is authorised by law to advise or treat persons concerning their social welfare.

Supersession

6. A child and youth care worker may not render services to a direct client who is already receiving services from another child and youth care worker, unless-
- (a) the said colleague is not available and the required services cannot or should not be kept in abeyance;
 - (b) it is within the context of multi-disciplinary teamwork of which the colleague is part of; and
 - (c) the services of that colleague have been terminated.

Conduct towards employers and partners

7. The following acts of a child and youth care worker towards an employer or a partner constitute unprofessional or improper conduct:
- (a) The breach of a contract of service;
 - (b) conduct that would justify dismissal in accordance with labour legislation;
 - (c) practicing or carrying out child and youth care services from the premises of a child and youth care practice without the prior written consent of the council or contrary to a condition subject to which consent was granted;
 - (d) practicing or carrying out a business, trade, work or profession, apart from the child and youth care profession, from the premises of a child and youth care practice, without the prior written consent of the council or contrary to a condition subject to which consent was granted.

- (e) practicing in partnership with a person who is not registered in terms of the Act; or
- (f) employing a person who is not registered in of the Act to perform child and youth care work.

Advertisement

8. (1) A child and youth care worker may not advertise his or her services in a manner that implies that a comparison between the services, knowledge, skill or efficiency of such a child and youth care worker and those of a colleague or other professional person or welfare body.

(2) Conduct by a child and youth care worker that is in contravention of sub-rule (1) constitutes unprofessional or improper conduct.

Display of certificate

9. A practising child and youth care worker who fails to produce or display the registration certificate issued in terms of the Ac, when reasonable requested to do so by any person, is guilty of unprofessional or improper conduct.

Rules relating to the acts or omissions which constitute unprofessional or improper conduct of child and youth care workers and rules relating to conduct of child and youth care workers practising at professional and auxiliary levels

(Government Notice No 833 published in Government Gazette 38128 of 31 October 2014)

PART B

**Rules relating to conduct of child and youth care workers practising their profession
(CODE OF ETHICS)**

PART B

RULES RELATING TO CONDUCT OF CHILD AND YOUTH CARE WORKERS IN PRACTISING THEIR PROFESSION (CODE OF ETHICS)

Conduct expected of child and youth care worker

1. For the purpose of section 27(1)(a) of the Act the conduct set forth these Rules constitutes the conduct expected of a child and youth care worker in practising the profession.

Principles

2. The following are principles that a child and youth care worker must adhere to when practising the profession of child and youth care work:

- (a) every child -
 - (i) has a unique individual value, potential, rights and a right to professional social services irrespective of origin, gender, beliefs, ethnicity, disability, socio-economic and legal status;
 - (ii) has the right to acquire competencies that are holistic and developmentally appropriate; and
 - (iii) is best raised in a family or if it is not possible, in a setting that best approximates that of a family.
- (b) A child and youth care worker –
 - (i) has a responsibility to apply the unique knowledge, practice and skills of the profession to the developmental benefit of the child;
 - (ii) must render services professionally; and
 - (iii) must recognise personal and professional limitations and take these into account in practice.

Duties of child and youth care worker

3. A child and youth care worker must –

- (a) use the knowledge base of the profession in evaluating its practice and to support the profession in order to maintain and raise its dignity, value and integrity;
- (b) challenge unacceptable child and youth care work practice and uphold those that are acceptable;
- (c) protect the child and youth care work profession from unfounded criticism which could bring it into disrepute;
- (d) remain actively involved with the formulation, development, determination and implementation of professional policy; and

- (e) base child and youth care work practices on sound child and youth care work knowledge, theory and practices, and keep abreast of relevant developments and participate in research.

Relationship with clients

4. A child and youth care worker must -
 - (a) strive towards the client's optimal use of the child and youth care worker's abilities;
 - (b) recognise the uniqueness of each client;
 - (c) maintain a professional relationship with the client;
 - (d) acknowledge the right of the client to participation and self-determination;
 - (e) take into account the client's rights, preferences and objectives when restructuring and rendering service, even in the absence of the client;
 - (f) maintain the client's rights to confidentiality;
 - (g) not refuse services to a client on the grounds that the client's behaviour or beliefs are contrary to the values of the child and youth care worker;
 - (h) inform and prepare the client a decision regarding the termination of service to the client; and
 - (i) participate in, contribute to, and respect in practice the decisions of a multi-disciplinary team.

Relationship with employer

5. A child and youth care worker must acknowledge and respect the employer's authority as far as it is compatible with the ethical conduct of child and youth care workers.

Relationship with child and youth care worker institutions

6. A child and youth care worker must co-operate with child and youth care worker institutions whose policies, procedures and operations are directed towards adequate service-rendering and encouragement of professional practices consistent with ethical conduct.

Relationship with community

7. A child and youth care worker must -
 - a) enhance and promote service rendering to the community under all circumstances by utilising developing resources in the community; and
 - b) be aware of, initiate, develop and change social policy consistent with professional practices.

Application

8. These Rules apply to child and youth care workers at the professional and auxiliary level

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