

SOCIAL SERVICE PRACTITIONERS BILL, 2008

Draft: post public comment

BILL

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

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Comment [A1]: This draft incorporates the amendments proposed by the task team in response to comments received on the published draft and as contained in the drafts of 31.03.08 and 16.04.08.

Comment [A2]: As set out in the draft of 16.04.08, further instructions are required on the practical implications of the proposal that the Bill should recognise the professional status of the social work profession only and that the term social service practitioner should replace the term social service professional in respect of other occupational categories. In this regard:

- The proposal suggests a return to the pre-1989 statutory framework governing the social work profession and “associated” workers.

- The Children’s Act uses the term social service professional and defines this as including “a probation officer, development worker, child and youth care worker, youth worker, social auxiliary worker and social security worker who are registered as such in terms of the Social Service Professions Act, 1978 (Act 110 of 1978).”

- The Older Persons Act defines ‘social worker’ as “a person registered as a social worker under section 17 of the Social Service Professions Act, 1978 (Act 110 of 1978), and in the employ or service of government or a registered welfare organisation.”

How should these definitions be aligned to the use of the term social service practitioner and social services professional in the Bill and to the limited registration categories in clause 27?

The proposal also has implications for:

- the name of the Council;
- the description, purpose, functions and status of boards other than the social work board;
- the application of professional registration and disciplinary measures to non-professional social service practitioners;
- the transitional provisions in respect of professions and boards established by the Minister under the current Act.

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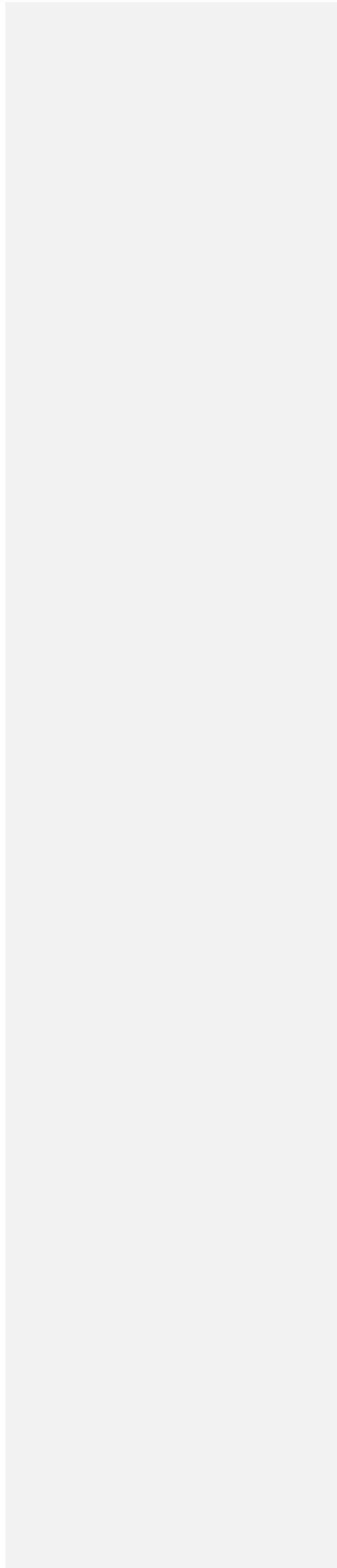
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CHAPTER 1 INTERPRETATION AND OBJECTS

1. Definitions

In this Act, unless the context indicates otherwise–

- 5 (a) “**child and youth care worker**” means a person registered in the category “child and youth care worker” as contemplated in section 27(1);
- (b) “**committee**” means the executive committee of the Council contemplated in section 14, any other committee established by the Council in terms of section 15 or any committee established by a professional board as contemplated in
10 section 23(3)(c).
- (c) “**Council**” means the South African Council for Social Service Professions established by section 3;
- (d) “**education and training institution**” means a university, a college or other education and training institution that offers an education and training
15 programme or programmes leading to a prescribed qualification;
- (e) “**Minister**” means the Minister responsible for social development;
- (f) “**practise**” means to render any service within the scope of a social service profession as defined by the Minister in terms of section 22(1)(b) or perform any type of work identified by the Minister in terms of section 28(1);
- 20 (g) “**prescribed**” in relation to any matter referred to in section 54 means prescribed by rule made under that section, and in relation to any matter referred to in section 55, prescribed by regulation;
- (h) “**prescribed qualification**” means a minimum qualification prescribed by the Minister in terms of section 55(1)(a);
- 25 (i) “**professional board**” means a professional board established under section 23;

Comment [A3]: See comments below on clause 27 and the instructions required regarding exactly which professions, practitioners and categories of registration are to be included within the Bill. This applies to the definition of child and youth care worker particularly.

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- (j) “**Registrar**” means the Registrar of the Council appointed under section 16;
- (k) “**regulation**” means a regulation made by the Minister under section 55;
- (l) “**rule**” means a rule made by the Council under section 54;
- (m) “**social auxiliary worker**” means a person registered in the category “social auxiliary worker” as contemplated in section 27(1);
- (n) “**social service practitioner**” means a person registered in any category contemplated in section 27(1);
- (o) “**social service profession**” means the social work profession, the child and youth care profession and any other profession designated by the Minister as a social service profession in terms of section 22(1)(a);
- (p) “**social worker**” means a person registered in the category “social worker” as contemplated in section 27(1);
- (q) “**student social worker**” means a person registered in the category “student social worker” as contemplated in section 27(1);
- (r) “**this Act**” includes the rules and regulations; and
- (s) “**trade union**” means a trade union registered under section 96 of the Labour Relations Act 66 of 1995.

Comment [A4]: See comment A2

2. Objects of Act

The objects of this Act are-

- (a) to establish the South African Council for Social Service Professions;
- (b) to provide for the establishment of professional boards in respect of the social service professions;
- (c) to advance social justice by promoting developmental social services;

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- (d) to promote and protect the interests of the public in matters involving social service practitioners;
 - (e) to advance the interests of social service practitioners
 - (f) to promote the professional and ethical standards of social service practitioners;
 - (g) to promote the standard and quality of education and training of social service practitioners;
 - (h) to provide for the professional registration of social service practitioners; and
 - (i) to provide for disciplinary action in respect of unprofessional conduct by social service practitioners.
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CHAPTER 2

SOUTH AFRICAN COUNCIL FOR SOCIAL SERVICE PROFESSIONS

PART 1: ESTABLISHMENT AND STATUS OF COUNCIL

3. Establishment and status of South African Council for Social Service Professions

- 15
- (1) The South African Council for Social Service Professions is hereby established as a juristic person.
 - (2) The Council must exercise its powers and perform its functions in accordance with this Act.

PART 2: POWERS, FUNCTIONS AND DUTIES OF COUNCIL

4. General powers of Council

- 20
- (1) The Council may, in order to achieve the objects of this Act -

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- (a) advise the Minister on-
- (i) any matter affecting social service practitioners;
 - (ii) any proposed amendments to this Act; and
 - (iii) any other matter arising from or connected to the application of this Act;
- 5 (b) take steps it considers necessary-
- (i) to protect the interests of the public in their dealings with social service practitioners;
 - (ii) to enhance the integrity of social service practitioners;
 - 10 (iii) to maintain and improve standards of service by, and the professional development of, social service practitioners;
- (c) advise, consult and liaise with relevant public authorities on matters affecting social service practitioners;
- (d) investigate and report on any matter affecting social service practitioners;
- 15 (e) determine policy on any matter concerning social service practitioners, including policy on –
- (i) financial matters;
 - (ii) education and training;
 - (iii) the registration of social service practitioners;
 - (iv) professional conduct and disciplinary procedures;
 - 20 (v) inter-professional matters; and
 - (vi) the development and maintenance of professional competence; and
- (f) ensure the uniform implementation and application of such policy by professional boards;

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- (g) develop and issue guidelines on any matter affecting social service practitioners;
 - (h) advise professional boards on matters affecting social service practitioners, coordinate the activities of professional boards and communicate on behalf of social service practitioners;
 - (i) provide the necessary financial, administrative and other assistance in order to enable professional boards to perform their functions;
 - (j) recognise, consult and liaise with professional associations on matters affecting social service practitioners;

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 - (k) promote, undertake or cause to be undertaken research on matters relating to social service practitioners.
 - (l) exercise or perform any other power or function conferred or imposed upon the Council by or under this Act or any other law; and
 - (m) generally, take such other steps as may be necessary for or conducive to the achievement of the objects of this Act.

15

5. Powers of Council regarding registration

The Council must, subject to this Act –

- 20
- (a) recommend to the Minister-
 - (i) the minimum qualifications, practical training, competency standards, conditions and requirements for the registration of social service practitioners; and
 - (ii) the period of validity, conditions and requirements for the renewal of registration.
 - (b) consider and decide on applications for registration and renewal of registration;

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- (c) keep registers in respect of social service practitioners and, after consulting the professional boards, prescribe –
 - (i) the registers to be kept;
 - (ii) the form of registers and the maintenance of registers;
 - 5 (iii) the manner in which alterations to registers may be effected;
 - (iv) the form of certificates of registration and the issuing of certificates of registration; and
- (d) ensure that the registers are at all reasonable times open to inspection by members of the public.

10 **6. Powers and functions of Council regarding education and training**

- (1) The Council must, subject to this Act –
 - (a) recommend to the Minister, the minimum standards of education and training applicable to social service practitioners;
 - (b) exercise control over the quality assurance of education and training applicable to social service practitioners;
 - 15 (c) consult with the Council on Higher Education established in terms of the Higher Education Act 101 of 1997 regarding matters relevant to education and training in the social service practitioners;
 - (d) consult with the South African Qualifications Authority established in terms of the South African Qualifications Authority Act 58 of 1995 and any relevant body accredited by the South African Qualifications Authority regarding education and training of social service practitioners; and
 - 20 (e) promote liaison in the field of education and training of social service practitioners in the Republic and internationally.

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- (2) The Council may, subject to this Act-
- (a) recognise, either wholly or in part, the qualifications or education and training programmes of education and training institutions and withdraw such recognition;
 - 5 (b) recognise, either wholly or in part, continued professional development programmes offered by education and training institutions or professional associations and withdraw such recognition;
 - (c) recognise any qualification held by any person (whether obtained in the Republic or elsewhere) as being equal, either wholly or in part, to any
10 prescribed qualification;
 - (d) assess and recognise prior, non-formal or experiential learning of any person for the purpose of registration as a social service practitioner; and
 - (e) enter into agreements with persons or bodies in the Republic or internationally regarding education and training of social service practitioners.
- (3) The Council must before withdrawing any recognition contemplated in subsection 2(a) or (b)-
- (a) give notice in writing to the education and training institution or professional association concerned of its intention to withdraw the recognition with reasons; and
 - 20 (b) afford the education and training institution or professional association a period of not less than twenty-one days in which to submit grounds for not withdrawing the recognition.
- (4) No qualification may, in terms of subsection (2)(c), be recognised as being equal, either
25 wholly or in part, to any prescribed qualification unless that qualification indicates a standard of professional education, training and development not lower than the prescribed qualification.

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

7. General duties of Council

- 10 (1) The Council must ensure that it has and maintains-
- (a) effective, efficient and transparent systems of financial and risk management and internal control, including a system of internal audit; and
 - (b) an appropriate procurement and provisioning system that is fair, equitable, transparent, competitive and cost effective.
- 15 (2) The Council must take effective and appropriate steps-
- (a) to collect all revenue due to the Council; and
 - (b) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the Council.
- (3) The Council is responsible for the management, including the safeguarding of its assets and for the management of its revenue, expenditure and liabilities.
- 20 (4) The Council must take effective and appropriate disciplinary steps against any employee of the Council who-
- (a) contravenes or fails to comply with this Act;
 - (b) commits an act that undermines the financial management and internal control systems of the Council; or
 - (c) makes or permits any irregular expenditure, fruitless and wasteful expenditure or expenditure not complying with the operational policies of the Council.
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8. Fiduciary duties of Council members

A member of the Council must-

- (a) exercise the duty of utmost care to ensure reasonable protection of the assets and records of the Council;
- 5 (b) act with fidelity, honesty, integrity and in the best interests of the Council in managing its financial affairs;
- (c) disclose to the Council any direct or indirect personal or private business interest that that member or any spouse, partner or close family member may have in any matter before the Council;
- 10 (d) withdraw from the proceedings of the Council when that matter is considered, unless the Council considers that the member's direct or indirect interest in a matter is trivial or irrelevant;
- (e) not act in a way that is inconsistent with the responsibilities of the Council in terms of this Act; and
- 15 (f) not use the position or privileges of, or confidential information obtained as, a member of the Council, for personal gain or to improperly benefit another person.

PART 3: COMPOSITION OF COUNCIL AND APPOINTMENT OF OFFICE-BEARERS

9. Composition of Council

- 20 (1) The Council consists of the following members appointed by the Minister -
 - (a) two persons designated by each professional board -
 - (i) both of whom must be registered as social service practitioners falling under that professional board; and

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(ii) at least one of whom must be a member of that professional board;

(b) one person nominated by national forums or networks of non-governmental organisations operating in the field of developmental social services;

(c) one person employed by the Department of Social Development and registered to practise as a social service practitioner;

(d) one person employed by the Department of Education, designated by the Minister of Education;

(e) one person nominated by education and training institutions offering an education or training programme or programmes leading to a prescribed qualification;

(f) one person nominated by trade unions representing employees working in the field of developmental social services; and

(g) four persons nominated by the public, who have experience and knowledge relevant to social service practitioners.

(2) The persons appointed by the Minister in terms of subsection (1)(g) must not be social service practitioners and must include-

(a) a person who represents the interests of persons with disabilities;

(b) a person with appropriate financial management expertise and experience; and

(c) a person with appropriate legal expertise and experience.

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

(4) The Council may co-opt two additional members if it believes it necessary in order-

(a) to supplement the expertise and experience at its disposal; or

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(b) to accommodate additional constituencies in the field of developmental social services.

(5) The Minister must by notice in the *Gazette* and two newspapers published and circulating nationally—

(a) invite the nominations and designations contemplated in subsection (1); and

(b) publish the names of persons appointed or co-opted as members of the Council in terms of subsections (1) or (3) and the dates of commencement of their terms of office.

(6) The notice contemplated in subsection (5)(a) must specify a period of at least thirty days for nominations or designations to be submitted to the Minister.

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

10. Term of office of members of Council

(1) Members of the Council hold office for a period of five years from the date of their appointment by the Minister or co-option by the Council.

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

(3) Despite subsections (1) and (2), the Minister may, after consulting the Council and by notice in the *Gazette*, extend the period of office of all members of the Council for a maximum period of twelve months.

11. Disqualification from membership of Council

(1) A person may not be appointed as a member of the Council if that person -

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- (a) is not a South African citizen and ordinarily resident in the Republic;
- (b) is an unrehabilitated insolvent;
- (c) is disqualified under any law from practising that person's profession;
- (d) has been convicted of an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and sentenced to imprisonment without the option of a fine or, in the case of fraud, any other offence involving dishonesty or any sexual offence, to a fine or imprisonment or both;
- (e) subject to subsection (2), has been convicted of an offence in a foreign country and sentenced to imprisonment without the option of a fine or, in the case of fraud, any other offence involving dishonesty or any sexual offence, to a fine or imprisonment or both;
- (f) has at any time been removed from an office of trust on account of breach of fiduciary duty; or
- (g) has been found guilty of unprofessional conduct in terms of this Act.

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

12. Vacation of office and filling of vacancies

- (1) A member of the Council must vacate office if the member-
- (a) becomes disqualified in terms of section 11 from being appointed as a member;
 - (b) has been absent from more than two consecutive ordinary meetings of the Council without the leave of the Council;
 - (c) resigns in writing addressed and delivered to the Minister;

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- (d) ceases to hold any qualification necessary for that member's appointment to the Council;
- (e) is declared by a competent court to be of unsound mind or mentally disordered or is detained under the Mental Health Care Act 17 of 2002; or
- 5 (f) is removed from office by the Minister-
 - (i) in the public interest and for just cause;
 - (ii) after consulting the Council; and
 - (iii) after a fair hearing.

- 10 (2) Every vacancy on the Council arising from the death of a member or from a circumstance referred to in subsection (1) must, within three months of the vacancy occurring, be filled for the unexpired portion of that member's term of office by a suitable person appointed by the Minister in terms of section 9.

13. President and vice-president of Council

- 15 (1) The Council must –
- (a) nominate three of its members for consideration by the Minister for appointment as the president of the Council; and
 - (b) elect the vice-president of the Council from among its members.
- (2) The Minister must appoint the president of the Council from the three nominees contemplated in subsection (1)(a).
- 20 (3) The president of the Council must be registered to practice as a social service practitioner.
- (4) The president and the vice-president of the Council –
- (a) hold office for the duration of their terms of office as members of the Council;

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- (b) on expiry of their term of office, are eligible for re-appointment or re-election but may not serve more than two consecutive terms of office;
 - (c) may vacate office without terminating their membership of the Council.
- (5) The Minister may remove the president or vice-president of the Council from office-
- (a) in the public interest and for just cause;
 - (b) after consulting the Council; and
 - (c) after a fair hearing.
- (6) If the office of president or vice-president becomes vacant, a replacement must be appointed or elected as contemplated in subsections (1) and (2).

PART 4: COMMITTEES OF COUNCIL

14. Executive committee of Council

- (1) The executive committee of the Council consists of the president, the vice-president and five other members of the Council, designated by the Council. The executive committee must comprise of at least four members registered to practice as a social service practitioner.
- (2) The executive committee must-
- (a) ensure that the decisions of the Council are implemented;
 - (b) exercise or perform any power or function delegated to it by the Council.
- (3) The quorum for and the procedure at meetings of the executive committee is as prescribed.

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15. Other committees of Council

- (1) The Council may establish committees that it considers necessary for the effective exercise or performance of its powers and functions.
- (2) Every committee established by the Council must-
 - (a) assist the Council in the exercise or performance of its functions or in respect of matters specified by the Council;
 - (b) advise the Council on matters specified by the Council;
 - (c) exercise or perform such other powers and functions delegated by the Council.
- (3) The Council must determine the membership of any committee established in terms of subsection (1) and must designate a member of the committee as chairperson.
- (4) The Council may, in respect of any committee established under subsection (1)-
 - (a) appoint the members of the committee, which may include members of the Council and any other person;
 - (b) determine the terms of reference of the committee;
 - (c) make rules regarding the holding of and procedure at meetings; and
 - (d) at any time dissolve or reconstitute the committee.

PART 5: REGISTRAR AND STAFF OF COUNCIL

16. Appointment of Registrar

- (1) The Council, subject to the approval of the Minister, must appoint a suitably qualified person as Registrar.
- (2) The Registrar –
 - (a) is an employee of the Council and is its accounting officer;

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(b) is responsible for the efficient management of the affairs of the Council;

(c) must exercise the powers and perform the functions conferred on the Registrar by or under this Act or delegated to the Registrar by the Council.

(3) The Council, in consultation with the Minister, must determine the remuneration, allowances, benefits, and other terms and conditions of appointment of the Registrar.

(4) If the Registrar is unable to exercise or perform his or her functions, the Council may appoint an acting Registrar to exercise the powers and perform the functions of the Registrar.

17. Appointment of staff

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

(2) The Council must determine the remuneration, allowances, benefits, and other terms and conditions of appointment of its staff.

PART 6: OPERATING PROCEDURES OF COUNCIL

18. Meetings and operating procedures of Council

(1) The Council must meet at least twice each year at times and places determined by the president of the Council.

(2) The president must convene a special meeting of the Council upon written request by the Minister or at least six members of the Council. A written request for a special meeting must state clearly the purpose of the meeting.

(3) The president, or in the absence of the president, the vice-president presides at meetings of the Council. If both the president and the vice-president are absent from a meeting of the Council, the Council may elect another member to preside at that meeting.

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- (4) The majority of the members of the Council constitute a quorum for a meeting of the Council. Decisions of the Council require a supporting vote of a majority of members present at the meeting.
- (5) The Council may prescribe rules to further regulate its proceedings.
- 5 (6) A decision of the Council is not invalid by reason only of a 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 the decision was taken.

PART 7: FINANCES OF COUNCIL

19. Remuneration and allowances

10 The Minister must determine the remuneration and allowances payable to members of the Council and the professional boards and any committees of the Council and the professional boards.

20. Funding and investments

- 15 (1) The funds of the Council consist of-
- (a) money appropriated by Parliament for that purpose;
- (b) moneys received by the Council in terms of this Act;
- (c) fines imposed and recovered in terms of this Act;
- (d) moneys obtained by way of loans raised by the Council with the approval of the Minister;
- 20 (e) income derived by the Council from any investment; and
- (f) moneys accruing to the Council from any other source.

Comment [A5]: As set out in the draft of 16.04.08, final instructions are required on the issue of the PFMA and on whether the Council will fall within the ambit of the definition of national public entity under that Act.

Comment [A6]: As set out in the draft of 16.04.08, final instructions are required on whether the reference to monies appropriated by Parliament should be excluded as this is provided for in section 12(1) of the current Act.

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- (2) Before acting under subsection (1), the Minister must –
- (a) by notice in the *Gazette* and in at least two newspapers published and circulating nationally –
 - (i) inform affected persons of his or her intention so to act;
 - (ii) invite affected persons to submit written representations on the matter within a period of not less than twenty-one days;
 - (b) consider any written representations submitted.

23. Establishment of professional boards

- (1) The Minister may, on the recommendation of the Council and by notice in the *Gazette*, establish a professional board for a social service profession or for two or more social service professions.
- (2) The Minister may, on the recommendation of the Council, make regulations relating to the constitution, functions, powers, functioning and term of office of members of a professional board.
- (3) The regulations contemplated in subsection (2) must specify –
- (a) in respect of the composition of a professional board, that -
 - (i) the majority of the members of the professional board must be elected by members of the profession or professions concerned;
 - (ii) persons representing the community must comprise not less than twenty per cent of the members of the professional board;
 - (iii) education and training institutions must be represented on the professional board;
 - (iv) the department of social development must be represented on the professional board;

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(v) trade unions which represent employees working in the field of developmental social services must be represented on the professional board;

(vi) one or more persons with appropriate legal expertise and experience must be appointed to the professional board;

(b) the procedure to be followed for the election and appointment of the members of a professional board;

(c) the establishment by a professional board of 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 must be the chairperson of the committee;

(d) that the chairperson of a professional board must be registered to practice as a social service practitioner falling under the profession board;

(e) that a professional board may delegate its powers and functions to any committee of the professional board;

(f) the appointment of a chairperson and vice-chairperson by the members of a professional board and the powers and functions of the chairperson and vice-chairperson;

(g) the term of office of the members of a professional board; and

(h) any other matter necessary for the effective functioning of a professional board.

(4) The Minister may, on the recommendation of the Council and after consulting the professional board, by notice in the *Gazette* dissolve any professional board.

(5) Before acting under subsection (4), the Minister must -

(a) by notice in the *Gazette* -

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- (i) inform affected persons of his or her intention to dissolve the professional board with reasons;
- (ii) invite affected persons to submit written representations on the matter within a period of not less than twenty-one days;

5 (b) consider any written representations submitted.

24. General powers of professional boards

(1) A professional board must exercise its powers and perform its functions subject to the policies of the Council determined in terms of section 4(1)(e).

(2) A professional board may, subject to this Act-

- 10 (a) advise the Council on any matter affecting any social service profession falling under the professional board;
- (b) consult and liaise with any other professional board or relevant public authority on matters affecting any social service profession falling under the professional board;
- 15 (c) make representations to the Council for the making, amending or withdrawal of any regulation or rule that applies or will apply to the professional board or any social service profession falling under the professional board;
- (d) after consultation with any other professional board, establish joint standing committees of the boards concerned;
- 20 (e) promote liaison in the field of education and training and promote the standard of education and training in any social service profession falling under the professional board;
- (f) exercise effective control over the professional conduct of social service practitioners falling under the professional board;

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- (g) protect, promote and maintain the dignity and integrity of any social service profession falling under the professional board;
- (h) exercise or perform such other powers and functions conferred on the professional board by this Act, delegated to the professional board by the Council or prescribed in terms of this Act;
- (i) generally, do all things necessary to achieve the objects of this Act in relation to any social service profession falling under the professional board.

25. Disqualifications from membership of professional boards

(1) A person may not be appointed as a member of a professional board if that person -

- (a) is not a South African citizen and ordinarily resident in the Republic;
- (b) is an unrehabilitated insolvent;
- (c) is disqualified under any law from practising that person's profession;
- (d) has been convicted of an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and sentenced to imprisonment without the option of a fine or, in the case of fraud, any other offence involving dishonesty or any sexual offence, to a fine or imprisonment or both;
- (e) subject to subsection (2), has been convicted of an offence in a foreign country and sentenced to imprisonment without the option of a fine or, in the case of fraud, any other offence involving dishonesty or a sexual offence, to a fine or imprisonment or both;
- (f) has at any time been removed from an office of trust on account of breach of fiduciary duty;
- (g) has been found guilty of unprofessional conduct in terms of this Act.

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

26. Vacation of office by members and filling of vacancies on professional boards

- (1) A member of a professional board must vacate office if the member-
- 5 (a) becomes disqualified in terms of section 25 from being appointed as a member;
- (b) has been absent from more than three consecutive meetings of the professional board without the leave of the professional board, except on good cause shown;
- 10 (c) resigns in writing;
- (d) in the case of an elected member of a professional board, ceases to hold a qualification required for his or her election or ceases to represent the category of persons who elected him or her to the professional board;
- 15 (e) is declared by a competent court to be of unsound mind or mentally disordered or is detained under the Mental Health Care Act 17 of 2002; or
- (f) is removed from office by the Minister-
- (i) in the public interest and for just cause;
- (ii) after consulting the professional board; and
- (iii) after a fair hearing.
- 20 (2) Every vacancy on a professional board arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member, must be filled in the same manner in which that member was elected or appointed and every member so elected or appointed holds office for the unexpired period of the term of office of the vacating member.

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CHAPTER 4 REGISTRATION

27. Categories of registration

- (1) The categories in which a person may register as a social service practitioner are –
- (a) social worker;
 - (b) social auxiliary worker;
 - (c) student social worker;
 - (d) child and youth care worker;
 - (e) any other category designated in terms of subsection (2).
- (2) The Minister may, on the recommendation of the Council and by notice in the *Gazette*, designate additional categories in which persons may register as social service practitioners.
- (3) A person may practise in a category contemplated in subsection (1) only if he or she is registered in that category.

28. Identification of work

- (1) The Minister may, on the recommendation of the Council and by notice in the *Gazette* identify the type of work which may only be performed by persons registered in a category contemplated in section 27.
- (2) Before acting under subsection (1), the Minister -
- (a) must by notice in the *Gazette* –
 - (i) inform affected persons of his or her intention so to act;

Comment [A9]: As set out in the draft of 16.04.08, final instructions are required on the categories of registration to be included in the Bill (there is a contradiction in the minutes of the meetings where the issue was discussed). Furthermore, although a professional board for Child and Youth Care has been established under the current Act, we understand that social work and social auxiliary work are the only professions currently registered by the SACSSP. The issue of whether child and youth care workers must be expressly included or excluded must be resolved, particularly since a professional board has already been established for child and youth care workers and the Council's website states that regulations will be drafted for the registration of child and youth care workers.

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- (ii) invite affected persons to submit written representations on the matter within a period of not less than twenty-one days;
- (b) must consider any written representations submitted within that period; and
- (c) may consult the Competition Commission established by the Competition Act 89 of 1998.

29. Applications for registration

- (1) Any person who wishes to be registered as a social service practitioner must apply to the Council for registration in the prescribed form and manner.
- (2) An application for registration in terms of subsection (1) must be accompanied by-
 - (a) the prescribed qualifications in respect of the registration category concerned;
 - (b) proof of the authenticity and validity of the qualifications submitted as may be required by the Council;
 - (c) the prescribed application and registration fees;
 - (d) proof of identity and residence status in the Republic;
 - (e) proof of good character as may be required by the Council;
 - (f) the applicant's residential address within the Republic;
 - (g) any further documents and information as may be prescribed.
- (3) For the purpose of considering any application contemplated in subsection (1), the Council may require the applicant to furnish further proof in support of the application regarding the applicant's identity, good character, education and training, qualifications and experience.
- (4) The Council may approve an application for registration if it is satisfied that-

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- (a) the qualifications, information and documentation submitted in support of the application meet the prescribed requirements;
- (b) the applicant is not disqualified in terms of section 31; and
- (c) the applicant is a fit and proper person.

5 (5) If the Council approves an application, the Registrar must –

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

10 (6) A residential address furnished to the Registrar in terms of sub-section (2)(f) or any change thereto as contemplated in subsection (8), serves as the registered address for service upon such person of any notice, documents and process in terms of this Act.

(7) A social service practitioner must notify the Registrar in writing of any change to his or her registered residential address and must do so within twenty-one days of such change.

15 (8) The Council may approve the provisional or temporary registration of a person who satisfies the prescribed requirements and conditions.

30. Registration of students

Despite section 29, the Council may, on application made in the prescribed form and manner, register in a student category contemplated in section 27 any person who-

- 20
- (a) satisfies the prescribed requirements and conditions; and
 - (b) is enrolled at an education and training institution in an education and training programme that leads to the acquisition of a prescribed qualification; or
 - (c) is undergoing practical training as a social service practitioner as a requirement for the acquisition of a prescribed qualification.

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31. Disqualifications from registration

- (1) The Council may refuse an application for registration if the applicant—
- (a) does not satisfy the requirements of this Act or the prescribed requirements;
 - (b) has been removed from an office of trust on account of breach of fiduciary duty;
 - (c) has been convicted of an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and sentenced to imprisonment without the option of a fine or, in the case of fraud, any other offence involving dishonesty or any sexual offence, to a fine or imprisonment or both;
 - (d) is a person whose name appears on the register contemplated in section 31 of the Older Persons Act 13 of 2006 or Part B of the National Child Protection Register contemplated in section 111 of the Children's Act 38 of 2005;
 - (e) subject to subsection (2), has been convicted of an offence in a foreign country and sentenced to imprisonment without the option of a fine or, in the case of fraud, any other offence involving dishonesty or any sexual offence, to a fine or imprisonment or both;
 - (f) is disqualified from registration as a result of any disciplinary sanction imposed under this Act;
 - (g) is an unrehabilitated insolvent.
- (2) An offence contemplated in subsection (1)(e) must constitute an offence under South African law.
- (3) The Council must provide any person whose application for registration has been refused under subsection (1) with written reasons for refusing the application.

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32. Professional registers

- (1) Subject to this Act, the Registrar is responsible for keeping and maintaining the professional registers of the Council.
- 5 (2) The Registrar must keep separate registers in the Council's office in respect of the different social service professions and categories of registration contemplated in section 27.
- (3) The Registrar must record in the appropriate register the prescribed particulars in the prescribed manner in respect of every social service profession and category of registration.
- 10 (4) The Council may instruct the Registrar to rectify any incorrect entry in a register and the Registrar must record any such rectification in the register concerned.
- (5) Any document purporting to be an extract from a register, signed by the Registrar, must on production thereof be admissible as evidence and must in any proceedings be regarded as *prima facie* proof of the facts recorded therein.
- 15 (6) A certificate signed by the Registrar, in which it is certified that the name of a person mentioned therein does not appear in any register of the Council, must be regarded as *prima facie* proof of the fact that the person is not registered in terms of this Act.
- (7) Subject to this Act and any prescribed conditions, any person registered or deemed to have been registered in terms of this Act may –
 - 20 (a) practise a social services profession in the category in respect of which he or she is registered; and
 - (b) use such title, description or symbol prescribed by the Council for the social service profession and registration category concerned.
- 25 (8) Any person who is registered or deemed to be registered in terms of this Act may, in the practice of his or her profession, state particulars only of those degrees, diplomas, certificates or other qualifications entered in the appropriate register against his or her name.

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33. Removal of name from register

- (1) The Council may cancel a social service practitioner's registration and instruct the Registrar to remove the name of any person from the register concerned if the Council is satisfied that the person –
- 5 (a) has died;
- (b) has in the prescribed manner requested the removal of his or her name from the register and that no disciplinary steps in terms of Chapter 5 are pending or contemplated, or are likely to be instituted, against that person;
- (c) has been found guilty of unprofessional conduct and a penalty contemplated in
10 section 47(1)(c) imposed on such person;
- (d) has left the Republic permanently or has been absent from the Republic for a continuous period of more than three years without the prescribed notice to the Council;
- (e) has failed to pay money owed to the Council within three months of the date
15 upon which it became payable;
- (f) has failed to furnish a residential address or postal address in accordance with the written request of the Registrar;
- (g) is declared by a competent court to be of unsound mind or mentally disordered or is detained under the Mental Health Care Act 17 of 2002;
- 20 (h) has been registered in error or fraudulently;
- (i) has not met the requirements prescribed by the Council regarding continuing professional development.
- (2) Before cancelling a registration as contemplated in subsections (1)(d) to (i), the Council must -
- 25 (a) give notice in writing to the person at his or her registered address of its intention to cancel and the reasons on which it is based;

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(b) afford the person a period of not less than twenty-one days in which to submit written grounds for not proceeding with the cancellation; and

(c) consider any grounds received within the prescribed period.

5 (3) Notice of the removal of a person's name from the register in terms of subsections (1)(b) to (i) must be given by the Registrar to the person concerned by letter to the person's registered address.

(4) Any person whose name has been removed in terms of this section must return their registration certificate to the Registrar within thirty days of being directed by the Registrar in writing to do so.

10 (5) 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 the person satisfies the requirements for registration in terms of this Act, the Council may on application made in the prescribed manner by that person and after payment of the prescribed fee, order that the person's name be restored to the register.

15 (6) The fact that a person's registration has been cancelled and their name removed from a register does not prevent a professional board from instituting disciplinary proceedings against that person in terms of Chapter 5 for unprofessional conduct committed prior to the cancellation or removal.

34. Renewal of registration

20 (1) A person registered in terms of this Act must, at least three months before the prescribed expiry date of his or her registration, apply in the prescribed manner to the Council for the renewal of his or her registration.

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

25 (3) The Council must, on application, register any person whose registration was cancelled in terms of section 33(1)(e) if that person has paid-

(a) the prescribed fee;

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

5 **35. Registration of additional qualifications and specialities**

- (1) The Council may prescribe –
 - (a) the degrees, diplomas, certificates and other qualifications which may be registered as additional qualifications by social service practitioners; and
 - (b) the proficiencies which may be registered as specialities by social service practitioners.
- (2) A person who wishes to register a degree, diploma, certificate or other qualification in addition to a prescribed qualification, or a speciality, must apply to the Council in the prescribed form and manner.
- (3) An application in terms of subsection (2) must be accompanied by –
 - (a) the prescribed fee; and
 - (b) documentary proof of the additional qualification in question as the Council may require; or
 - (c) proof that the applicant complies with the prescribed requirements for the speciality.
- (4) The Council may instruct the Registrar to enter the degree, diploma, certificate or other qualification, or the speciality, in the register against the name of the applicant, if the Council is satisfied that –
 - (a) the additional qualification is a degree, diploma, certificate or other qualification prescribed in terms of subsection (1); or

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

5 (5) The Council may require an applicant who does not comply with the prescribed requirements to sit a prescribed assessment on a date and at a place and before assessors appointed by the Council, for the purpose of determining whether his or her professional knowledge and skill are adequate to practise the speciality concerned.

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

10 (7) If the applicant passes the prescribed assessment to the satisfaction of the Council, the Council must instruct the Registrar to enter the specialty in the register against the name of that person.

15 (8) The Council may cancel any additional qualification or speciality registered in terms of this section, and may instruct the Registrar to remove it from a register, if the social service practitioner concerned ceases to comply with any prescribed requirement for the registration of the additional qualification or speciality.

(9) Before acting in terms of subsection (8), the Council must -

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

20 (b) afford the person a period of not less than twenty-one days to submit written representations on the matter; and

(c) consider any representations received.

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

25 (11) The Council may instruct the Registrar to restore any additional qualification or speciality removed in terms of subsection (8) if the social service practitioner-

(a) applies in the prescribed form and manner for restoration;

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

36. Registration of foreign qualifications

- 5 (1) No qualification obtained by virtue of an examination or assessment conducted by an education and training institution situated outside the Republic may be registered in terms of this Act, unless –
- (a) the qualification entitles the holder thereof to practise as a social service practitioner in the country in which the education and training institution is situated; and
 - 10 (b) the Council is satisfied that the qualification indicates a standard of professional education, training and development not lower than that prescribed in respect of the education, training and development of a person or persons practising as such a social service practitioner within the Republic.
- 15 (2) For purposes of subsection (1)(b), the Council may require a person who holds a foreign qualification and who applies for registration as a social service practitioner to pass to the satisfaction of the Council, a prescribed assessment –
- (a) on a date and at a place and before assessors appointed by the Council;
 - (b) for the purpose of determining whether the applicant's professional knowledge and skill are adequate to be registered to practice as a social service practitioner.
- 20 (3) The Council may prescribe the fees payable by an applicant in respect of the prescribed assessment.

37. Continued professional development

The Council may make rules prescribing –

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- (a) conditions relating to continued professional development to be undergone by social service practitioners in order to retain or renew their registration;
- (b) the nature and extent of continued professional development to be undergone by social service practitioners; and
- 5 (c) the criteria for recognition of continued professional development programmes and of education and training institutions and professional bodies offering such programmes.

38. Appeals against registration decisions

- 10 (1) Any person aggrieved by a decision of the Council referred to in subsection (2) may, within ninety days of receiving notice thereof, appeal that decision to the appeals committee established in terms of section 51.
- (2) The decisions of the Council which may be appealed in terms of subsection (1) are –
 - (a) any refusal to register an applicant in terms of section 31;
 - (b) any cancellation of registration in terms of section 33(1)(d) to 33(1)(i);
 - 15 (c) any refusal to restore registration in terms of section 33(5);
 - (d) any refusal to renew registration in terms of section 34;
 - (e) any decision in terms of section 35 –
 - (i) to refuse to register an additional qualification or speciality;
 - (ii) to cancel a registered additional qualification or speciality;
 - 20 (iii) to refuse to restore an additional qualification or speciality; and
 - (f) any refusal to register a foreign qualification in terms of section 36.

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CHAPTER 5

DISCIPLINARY POWERS AND PROCEDURES

39. Professional conduct

- 5 (1) The Council may, after consultation with the professional boards, develop and issue codes of conduct for the purpose of regulating the professional conduct of social service practitioners.
- (2) Social service practitioners must comply with any code of conduct issued by the Council in terms of subsection (1) and failure to do so constitutes unprofessional conduct.
- 10 (3) The Council and the professional boards must –
- (a) take steps to educate social service practitioners and the public on the required standards of professional conduct of social service practitioners; and
 - (b) ensure that any codes of conduct issued in terms of subsection (1) are available to members of the public at all reasonable times.

15 40. Complaints of unprofessional conduct

- 20 (1) A professional board must inquire into any complaint or allegation of unprofessional conduct against a social service practitioner falling within its jurisdiction.
- (2) In the absence of a complaint or allegation, a professional board may institute an inquiry into any alleged unprofessional conduct that comes to the notice of the professional board or the Council.
- (3) If, in the course of proceedings before any court of law, it appears to the court that there is *prima facie* evidence of unprofessional conduct by a social service practitioner, the court may direct that a copy of the record of the proceedings, or the part thereof that relates to that conduct, be forwarded to the Council.

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

5 **41. Investigation of unprofessional conduct**

- (1) A professional board may appoint an investigating committee -
- (a) to investigate any complaint or allegation of unprofessional conduct against a social service practitioner; and
 - (b) to recommend whether the social service practitioner should be charged with unprofessional conduct and, if so, the charge or charges that should be preferred against that social service practitioner.
- (2) An investigating committee may not question the social service practitioner concerned unless it informs the social service practitioner that -
- (a) he or she has the right to be assisted or represented by another person;
 - (b) he or she is not obliged to make any statement; and
 - (c) that any statement made by the social service practitioner may be used in evidence against him or her.
- (3) The investigating committee must, after concluding the investigation, submit its report and recommendations to the professional board.

20 **42. Charge of unprofessional conduct**

- (1) The professional board must consider the report of the investigating committee and if it believes that there are sufficient grounds to prefer a charge, must charge the social service practitioner with unprofessional conduct.

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- (2) The professional board must furnish a charge sheet to the social service practitioner by hand or by registered mail to that person's registered address.
- (3) The charge sheet must inform the social service practitioner -
- (a) of the details and nature of the charge;
 - (b) that he or she must, in writing, admit or deny the charge;
 - (c) that he or she may, together with the admission or denial, submit a written explanation regarding the unprofessional conduct concerned; and
 - (d) of the period, which must be reasonable but may not exceed thirty days, within which his or her plea and written explanation must be submitted to the professional board.
- (4) If the social service practitioner admits guilt to the charge, the professional board may-
- (a) find the social service practitioner guilty of unprofessional conduct as charged; and
 - (b) after allowing the social service practitioner an opportunity to make representations in mitigation of sentence, may impose a penalty contemplated in section 47.
- (5) Unless, the social service practitioner admits guilt to the charge as contemplated in subsection (4), the professional board must, on expiry of the period referred to in subsection (3)(d), refer the charge sheet and any plea and written explanation received to a disciplinary committee appointed in terms of section 43.

43. Appointment of disciplinary committee

- (1) A professional board must appoint a disciplinary committee to hear any charge of unprofessional conduct and a person to present the charge to the disciplinary committee.
- (2) The disciplinary committee must at least consist of -

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- (a) a person who specialises in the professional field of the person charged;
 - (b) a social service practitioner who has appropriate experience; and
 - (c) a person qualified in law and who has appropriate experience.
- (3) The professional board must appoint the chairperson of the disciplinary committee from amongst the persons referred to in subsection (2).

44. Disciplinary hearings

- (1) The chairperson of the disciplinary committee may call upon and administer an oath to, or take an affirmation from, any witness at the disciplinary hearing.
- (2) At a disciplinary hearing, the social service practitioner charged-
 - (a) may be assisted or represented by another person, including a legal representative;
 - (b) has the right to be heard;
 - (c) may call witnesses;
 - (d) may question any person called as a witness in support of the charge;
 - (e) may have access to any books, documents or objects produced in evidence; and
 - (f) may admit at any time before the conclusion of the disciplinary hearing that he or she is guilty of the charge despite the fact that he or she denied the charge or failed to respond in terms of section 42(3)(b).
- (3) The person appointed in terms of section 43(1) may during a disciplinary hearing-
 - (a) lead evidence and advance arguments in support of the charge;
 - (b) question any person summoned in terms of section 45 and any other witnesses;

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(c) call any person to give evidence or to produce any information, including any books, documents or objects in his or her possession or custody or under his or her control, which may have a bearing on the subject of the hearing.

5 (4) A disciplinary committee may accept into evidence the record of any civil or criminal proceedings in a court of law. A copy of such record duly certified by the registrar of the court concerned is *prima facie* proof of the correctness and authenticity of the record.

45. Powers to summons witnesses

10 (1) The disciplinary committee may, for the purposes of a disciplinary hearing, summons any person to appear before it at the time and place specified in the summons, to be questioned or to produce a book, document or object, which the disciplinary committee believes -

(a) may be able to give material information concerning the subject of the hearing; or

15 (b) has possession or custody of or has under his or her control any book, document or object which has any bearing on the subject of the hearing.

(2) A summons issued in terms of subsection (1), must-

(a) be in the prescribed form;

20 (b) be signed by the chairperson of the professional board or, in his or her absence, a member of the disciplinary committee; and

(c) be served on the person concerned personally or by sending it in the prescribed manner.

25 (3) A witness who has been summoned in terms of subsection (1) must remain in attendance until excused by the chairperson of the disciplinary committee from further attendance.

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- 5
- (4) The law relating to privilege, as applicable to a witness summoned to give evidence or to produce a book, document or object in a civil trial before a court of law applies with the necessary changes, to the examination of, or the production of any book, document or object to the disciplinary committee by any person called in terms of this section as a witness.
- (5) The disciplinary committee may retain any book, document or object produced in terms of subsection (4) for the duration of the hearing.

46. Proceedings after disciplinary hearing

- 10
- (1) The disciplinary committee must, within thirty days of conclusion of the hearing –
- (a) decide whether or not the social service practitioner is guilty of unprofessional conduct as charged; and
- (b) notify the social service practitioner and the professional board of its decision.
- (2) If the disciplinary committee decides that the social service practitioner is guilty of unprofessional conduct, it must allow –
- 15
- (a) the social service practitioner to call witnesses to give evidence on his or her behalf and to address the disciplinary committee in mitigation of sentence;
- (b) the person appointed in terms of section 43(1) to lead evidence and address the disciplinary committee on any aggravating circumstances.
- 20
- (3) The disciplinary committee may, after taking into account any aggravating or mitigating circumstances, sentence the social service practitioner to one or more of the disciplinary sanctions in section 47.
- (4) The disciplinary committee must inform the social service practitioner of his or her right of appeal in terms of this Act.
- 25
- (5) The professional board must, in the prescribed manner, publish details of any disciplinary finding that a social service practitioner is guilty of unprofessional conduct

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as contemplated in section (1)(a) and any disciplinary sanction imposed in terms of section (3).

47. Disciplinary sanctions

(1) A social service practitioner who has been found guilty of unprofessional conduct in terms of this Act, is liable to one or more of the following disciplinary sanctions-

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

(2) The disciplinary committee may -

- (a) postpone the imposition of a penalty for a period and on conditions as it may determine;
- (b) order that the execution of any disciplinary sanction referred to in subsections (1)(c) or (d) be suspended for a period and on conditions as it may determine;
- (c) impose the disciplinary sanction it considers appropriate, taking into account considerations of progressive and restorative discipline and the protection of the interests of the public.

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- 5 (3) If any social service practitioner fails to comply with any of the conditions imposed upon him or her in terms of subsection (2)(a) and the disciplinary committee is satisfied that the non-compliance was not due to circumstances beyond that person's control, the disciplinary committee may impose any of the penalties referred to in subsection (1) as if the imposition of the penalty had never been postponed.
- (4) If the execution of a penalty has been suspended in terms of subsection (2)(b) and -
- 10 (a) the disciplinary committee is satisfied that the person concerned complied with all the relevant conditions throughout the period of suspension, the disciplinary committee must inform the person that the penalty will not be put into operation;
- (b) the person concerned fails to comply with any of the conditions of suspension, the disciplinary committee must put the penalty imposed into operation unless that person satisfies the disciplinary committee that the non-compliance was due to circumstances beyond his or her control.
- 15 (5) Subject to this Chapter, the Registrar must –
- (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 the particulars of any penalties imposed on a social service practitioner in terms of this Chapter;
- 20 (c) issue the prescribed notices in respect of any person found guilty of unprofessional conduct under this Chapter.
- (6) Until a period of suspension imposed in terms of subsection (1)(b) has expired, such person is –
- (a) deemed not to be so registered; and
- 25 (b) disqualified from practising as a social service social service practitioner.
- (7) The disciplinary committee may, at any time before the expiration of the period for which any registration has been suspended under this Act, on application in the

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prescribed manner, for sound reasons and on such conditions as the disciplinary committee may think fit, terminate the suspension.

- 5
- (8) Subject to this Act, the Council may, after the expiration of such period as it in each case may determine, again register a person whose registration has been cancelled in terms of subsection (1)(c).
- (9) Any fine imposed under this section, must be paid by the social service practitioner to the Council within fourteen days of receiving notice of the imposition thereof.
- 10
- (10) Any fine imposed on a social service practitioner by a disciplinary committee in terms of this section has the effect of and may be enforced as a civil judgement in the magistrate's court of the district in which the social service practitioner resides or is employed.

48. Admission of guilt fines

- 15
- (1) If a professional board on reasonable grounds is of the view that after inquiry a person registered under this Act may be found guilty of a prescribed category of unprofessional conduct and in respect thereof would be liable to a fine not exceeding a prescribed amount, the professional board may issue a summons to that person in the prescribed form stating that the person may –
- 20
- (a) admit that he or she is guilty of such conduct; and
- (b) pay the fine, not exceeding the prescribed amount, specified in the summons, without having to appear before a disciplinary committee.
- (2) A person who receives a summons in terms of subsection (1) may, without appearing at a disciplinary hearing in terms of section 44, admit that he or she is guilty of the conduct by paying the specified fine to the Council on or before the date specified in the summons.

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49. Appeals against disciplinary decisions

- (1) Any person aggrieved by a decision of a disciplinary committee referred to in subsection (2) may, within ninety days of receiving notice thereof, appeal that decision to the appeals committee established in terms of section 51.
- (2) The decisions which may be appealed in terms of subsection (1) are any decision by a disciplinary committee –
- (a) that a social service practitioner is guilty of unprofessional conduct; and
 - (b) to impose a disciplinary sanction set out in section 47.

CHAPTER 6

GENERAL PROVISIONS

50. Community service

- (1) The Minister may, on the recommendation of the Council and by notice in the *Gazette*, declare that persons registering for the first time in a category of social service practitioner contemplated in section 27 must perform remunerated community service for a period, not exceeding two years, and on conditions determined in that notice.
- (2) The notice contemplated in subsection (1) must include -
- (a) the persons who must perform community service;
 - (b) the period of community service;
 - (c) the places at which community service must be performed;
 - (d) the remuneration and other conditions of employment of persons performing community service.
- (3) The notice contemplated in subsection (1) may –
- (a) provide differently for different categories of social service practitioner;

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- (b) exclude specified persons from community service;
- (c) exclude categories of registration from community service.

51. Appeals committee and appeals procedure

- (1) The Minister must appoint an appeals committee to hear and determine appeals against registration and disciplinary decisions in terms of sections 38 and 49.
- (2) The appeals committee must consist of -
 - (a) a legal practitioner of not less than five years experience, who is the chairperson; and
 - (b) two persons of senior standing in the profession concerned who have no direct interest in the affairs of the appellant and who are not members of the Council or the professional board concerned.
- (3) An appellant may in person or through a legal representative appear before the appeals committee or submit written statements or arguments in support of the appeal.
- (4) The procedure to be followed in connection with the noting and prosecution of an appeal in terms of this section is as prescribed by the Minister.
- (5) The appeals committee may confirm or set aside the decision forming the subject of the appeal, and may, if it is set aside, give such decision as in its opinion ought to have been given and may direct the Council, the professional board and the Registrar to do everything necessary to give effect to its decision.
- (6) The decision of the appeals committee is final.
- (7) The commencement of any decision contemplated in subsection (1), is postponed by the lodging of a notice of an appeal to the date on which the appeal is withdrawn by the aggrieved person or disposed of by the appeals committee.

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

52. Offences and penalties

- 5 (1) No person may –
- (a) practise as a social service practitioner unless that person is registered to practise in the relevant category contemplated in section 27 of this Act;
 - (b) obstruct, hinder or interfere with a social service practitioner in the performance of his or her official duties or functions in terms of any law;
 - 10 (c) perform any type of work identified by the Minister in terms of section 28(1) of this Act unless that person is registered as a social service practitioner;
 - (d) teach, educate, supervise or train persons enrolled at an education and training institution in an education and training programme that leads to the acquisition of a prescribed qualification, unless he or she -
 - 15 (i) has been registered in terms of this Act; or
 - (ii) has obtained the prior written approval of the Council in the prescribed manner.
 - (e) provide the practical training required for the acquisition of a prescribed qualification, unless he or she-
 - 20 (i) has been registered in terms of this Act; or
 - (ii) has obtained the prior written approval of the Council in the prescribed manner.
- (2) No person who is not registered in terms of this Act may-

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- (a) pretend to be, or in any manner hold or allow himself or herself to be held out as a social service practitioner, whether or not purporting to be registered;
- (b) perform any act indicating or calculated to lead persons to believe that he or she is a person registered in terms of this Act;
- 5 (c) use the title or description social worker, social auxiliary worker, student social worker, child and youth care worker or any other title or description prescribed by the Council.

10 (3) No person registered under this Act may take up, use or publish in any manner whatsoever any name, title, description or symbol indicating or calculated to lead persons to infer that that person possesses an additional qualification contemplated in section 35, if that qualification has not been entered in the appropriate register against that person's name.

15 (4) No person registered under this Act may practise as a specialist or may pretend to be a specialist, or may 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 section 35 in respect of such person.

(5) No person may, having been summoned in terms of section 45 -

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

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- (6) No person may, having been duly sworn in or having made an affirmation as a witness in a disciplinary inquiry-
- (a) give a false answer to any question lawfully put to that person; or
 - (b) make a false statement on any matter, knowing the statement to be false.
- 5 (7) No person may prevent any other person from complying with a summons or from giving evidence or producing a book, document or object which he or she is in terms of section 45 required to give or produce.
- 10 (8) No person may wilfully hinder or interfere with any member of a disciplinary committee in the exercise of any power conferred upon that person under sections 44, 45 or 46.
- (9) Any person who contravenes or fails to comply with any of subsections (1) to (8), is guilty of an offence and on conviction is liable to a fine not exceeding R10,000 or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.
- 15 (10) Subsection (9) does not apply to any person -
- (a) who has satisfied all the requirements for a prescribed qualification and whose application for registration in terms of this Act is under consideration by the Council;
 - 20 (b) other than a social service practitioner who is permitted or authorized in terms of any other law to render a service within the scope of a social service profession, as the holder of an office or in the ordinary course of the practice of a profession referred to in such law;
 - (c) belonging to a category of persons designated by the Minister in the prescribed manner.

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53. Delegation of powers and functions

- (1) The Council may, in writing and subject to such conditions as the Council may determine, delegate any of its powers and functions to a professional board, the Registrar, a committee of the Council or any other competent person.
- 5 (2) A professional board may, in writing and subject to such conditions as it may determine, delegate any of its powers and functions under this Act or delegated by the Council in terms of subsection (1) to a committee of the professional board.
- (3) The Registrar may, in writing and subject to such conditions as the Registrar may determine, delegate any of the Registrar's powers and functions under this Act or
10 delegated by the Council in terms of subsection (1)-
- (a) to any other person with appropriate knowledge and experience who is under the control of the Registrar;
- (b) with the approval of the Council, to any other person.
- (4) A delegation under subsection (1), (2) or (3)-
- 15 (a) does not divest the Council, the Registrar or the professional board of the power or function delegated and the Council, the Registrar or the professional board may at any time amend or set aside any decision made under the delegation;
- (b) does not prevent the exercise of the power or the performance of the function
20 by the Council, the Registrar or the professional board; and
- (c) may be revoked by the Council, the Registrar or the professional board at any time.
- (5) The Council, the Registrar and a professional board may not delegate their powers to delegate under this Act.
- 25 (6) The Council may not delegate its power to make rules in terms of section 54 of this Act.

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54. Council may make rules

- (1) The Council, after consulting any affected professional board, may make rules relating to –
- (a) the conduct of persons practising as social service practitioners;
 - 5 (b) the conduct of social service practitioners that constitutes unprofessional conduct;
 - (c) the establishment, constitution, powers and functions of committees;
 - (d) the tariff of fees serving as a guide for the fees which may be charged in respect of professional services rendered by a social service practitioner;
 - 10 (e) the recognition of the qualifications or education and training programmes of education and training institutions and the withdrawal of such recognition;
 - (f) the criteria and procedures in terms of which persons who are not registered in terms of this Act may be granted approval to teach, educate or train persons enrolled at an education and training institution in an education and training programme that leads to the acquisition of a prescribed qualification;
 - 15 (g) the appointment and accreditation of assessors and moderators;
 - (h) the fees to be paid annually to the Council by persons practising as social service practitioners, and the fees to be paid to the Council in respect of -
 - 20 (i) the registration or re-registration of persons practising as social service practitioners and of additional qualifications, specialities and private practices;
 - (ii) the restoration of a qualification, speciality, practice and the name of a person to a register;
 - (iii) any application which may or must be made under this Act;
 - 25 (iv) the issue of registration certificates or copies thereof;

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- (v) the provision of extracts from any register;
- (vi) the sitting of examinations and assessments and the issue of associated certificates;
- (vii) any other act which may or must be performed by the Council, a professional board or by the Registrar under this Act;
- (i) the allowances to be paid to members of the Council, professional boards and of committees of the Council and professional boards in respect of the carrying out of their functions;
- (j) the exemption of certain persons or categories of persons from the payment of fees;
- (k) the appointment of assessors and moderators, the conduct of examinations and assessments and the granting of certificates;
- (l) any matter in respect of which the Council may or must make rules in terms of this Act; and
- (m) any matter which the Council considers necessary or expedient for the achievement or promotion of its objects or those of a professional board, or for the exercise or performance of its powers and functions or those of a professional board.

- (2) Different rules may in terms of subsection (1) be made in respect of different categories of registration.

55. Minister may make regulations

- (1) The Minister may, on the recommendation of the Council, make regulations regarding—
- (a) the minimum qualifications for registration under this Act;
 - (b) the minimum requirements for the education and training, and the nature, content and duration of education and training programmes, curricula and

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practical training, which are required in order to obtain a prescribed qualification;

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- (c) investigations and inquiries in terms of Chapter 5, including -
- (i) the manner in which any complaint of alleged unprofessional conduct by a social service practitioner may be lodged with the Council;
- (ii) the manner in which an investigation or inquiry may be instituted and conducted;
- (iii) the procedure to be followed at investigations and inquiries; and
- 10 (iv) any other matter connected with instituting or conducting investigations or inquiries;
- (d) the registration or re-registration of persons practising as social service practitioners and of additional qualifications, specialities and private practices;
- (e) the form of any notice or summons given or served under this Act;
- 15 (f) the registration and conduct of a private practice by a person practising as a social service practitioner;
- (g) the documents which must accompany any application in terms of this Act;
- (h) the requirements to be complied with by an applicant for the registration of a speciality;
- 20 (i) the conditions subject to which a person may practise as a social service practitioner in respect of a registered speciality;
- (j) the conditions subject to which any person registered in terms of this Act may practise their profession;
- 25 (k) the keeping, maintaining and updating by the Registrar of a register of interests of members of the Council and professional boards, and public access to this register;

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(l) public access to any professional register kept and maintained in terms of this Act;

(m) any matter, except a matter referred to in section 54, which may or must be prescribed under this Act; and

5 (n) generally, any matters that the Minister considers necessary or expedient in order to achieve the objects of this Act.

(2) A regulation made under this section may, for any contravention thereof or failure to comply therewith, prescribe a fine not exceeding R 10,000 or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

10 (3) Different regulations may under this section be made in respect of persons practising different categories of registration as social service practitioners..

56. Repeal of laws

The Social Service Professions Act 110 of 1978 is hereby repealed.

57. Transitional provisions

15 (1) For purposes of this section “SACSSP” means the South African Council for Social Service Professions established by section 2 of the Social Service Professions Act 110 of 1978.

(2) All assets, liabilities, rights and obligations of the SACSSP devolve upon and vest in the Council.

20 (3) Any person who immediately prior to the commencement of this Act was a member of the SACSSP is deemed to have been appointed as a member of the Council under this Act until a date determined by the Minister by notice in the *Gazette* and the Council must be deemed to be validly constituted in terms of this Act until that date.

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- 5
- (4) Any professional board established by the Minister in terms of the Social Services Professions Act 110 of 1978 is deemed to have been established in terms of this Act.
- (5) Any person who immediately prior to the commencement of this Act was a member of a professional board established by the Minister in terms of the Social Services Professions Act 110 of 1978 is deemed to have been appointed as a member of the professional board under this Act until a date determined by the Minister by notice in the *Gazette* and the professional board must be deemed to be validly constituted in terms of this Act, until that date.
- 10
- (6) Any person who immediately prior to the commencement of this Act was registered under the Social Service Professions Act 110 of 1978 as a social worker, student social worker, social auxiliary worker or a person practicing a profession in respect of which a professional board was established under that Act, is deemed to be a social service practitioner in terms of this Act.
- 15
- (7) Any application for registration under the Social Service Professions Act 110 of 1978 that is pending on the commencement of this Act must be dealt with as if that Act had not been repealed.
- (8) Any disciplinary or appeal proceedings under the Social Service Professions Act 110 of 1978 that are pending on the commencement of this Act, must be dealt with as if that Act had not been repealed.
- 20
- (9) Any notice or certificate issued by the SACSSP or a professional board in terms of the Social Service Professions Act 110 of 1978 is deemed to have been issued in terms of this Act.
- (10) Any regulation or rule prescribed in terms of the Social Service Professions Act 110 of 1978 and in force on the date of commencement of this Act is deemed to have been prescribed under this Act and may be amended or repealed under this Act.
- 25
- (11) Any register kept in terms of the Social Service Professions Act 110 of 1978 is deemed to be a register kept in terms of this Act.

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- (12) Any act performed or decision taken in terms of the Social Service Professions Act 110 of 1978 is deemed to have been performed or to have been taken in terms of the corresponding provision of this Act.

58. Short title and commencement date

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- (1) This Act-

(a) is called the Social Service Practitioners Act, 2008; and

(b) commences on a date to be determined by the President by proclamation in the Gazette.

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- (2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.