

# Understanding the Social Service Professions and Occupations Bill: Part Two

By Prinslean Mahery and Khululwa Seyisi

The first article on the Social Service Professions and Occupations Bill (the Bill) considered broadly the distinction made between social service occupations and social service professions. That subject will be reconsidered in depth in a follow up article next year. However there are various other issues in the Bill that require the focused attention of all sectors that will be affected by its provisions. The Preamble of the Bill indicates that the broad objective of the Bill is to determine the composition of the Council and to set out the composition of the boards. Since the Bill differentiates between social service occupations and social service professions it makes separate provision for and regulates the professional and occupational boards established. This article looks at the composition of and powers given to the South African Council for Social Service Professions and Occupations (the Council) and the different boards in the Bill. Some comparisons are also drawn from the provisions in the Bill with the provisions of the current Act that regulates the social service profession, namely the Social Service Professions Act 110 of 197.

## Composition of Council

Members of the Council are appointed by the Minister. Council is composed as follows:

- Each professional board designates three professionals from the profession falling under that social service.

- The occupational boards are represented on Council by two persons who must also be registered as social service practitioners falling under that occupational board.
- The rest of the members of Council consist of one person nominated by forums or networks of non-governmental organizations in the field of developmental social services;
- One person each from the Departments of Social Development and Education; one person representing the trade unions and two persons nominated by the public.
- Two additional members may be co-opted by Council to be members if Council feels that it is necessary to supplement its expertise or to accommodate 'additional constituencies in the field of developmental social services', this could include emergent professions or occupations.

In terms of the current Act, Council members can elect their own president and vice president but the Bill allows the Minister to decide on which of the three nominees put forward by Council should be appointed as Council president.

## Powers of Council

Part two of chapter two in the Bill sets out the powers of Council. It has general powers and also specific powers regarding registration, education training

and development. Section 4 lists the range of general powers of Council. These powers include advising the Minister of Social Development on any matter relating to the application of the provisions in the Bill as well as powers relating directly to social service practitioners. Social service practitioners (hereafter called simply 'practitioners') refer to persons registered to practice either a social service profession or a social service occupation.

### **The general powers Council has in relation to practitioners include powers to:**

- advise the Minister, public authorities and boards on matters affecting social service practitioners
- take any necessary steps to enhance the integrity of social service practitioners
- determine policies for social practitioners on finances, education, training and development, registration of social service practitioners and professional conduct and disciplinary procedures for the practitioners

*Between social service occupations and social service professions it makes separate provision for and regulates the professional and occupational boards established.*

*Members of the Council are appointed by the Minister.*

- develop and issue guidelines on matters affecting practitioners.

Council can also provide the boards with financial and other assistance to enable the boards to perform their functions better. It must be noted that these powers are not mandatory functions, so Council can choose to act on certain powers and not others, it will probably depend on the circumstances faced by Council and/ or practitioners at a particular time. In other words, when it comes to the general powers of Council they might have the power to do certain things but that does not mean that Council is obliged to do those things, like providing financial assistance to boards.

However when it comes to Council's specific powers on registration, education, training and development, Council is obliged to fulfil certain responsibilities. Council must among other things, make recommendations to the Minister on the minimum qualifications, practical training, competency standards, conditions and requirements for the registration of practitioners and on the duration of valid registrations as well as the conditions and requirements for renewing registrations. This power given to Council in the Bill is different to what the current Act provides. In terms of the current Act the boards recommend to Council the nature of the qualifications for registration of social workers, social auxiliary workers and persons practicing other professions with professional boards. So at the moment Council is required to consult with such boards before it can determine minimum qualifications and competency standards. The Bill does not oblige Council to consult the boards on the

minimum qualifications and standards for registration. So for example, the child and youth care board would not be able to influence Council on minimum qualifications and competency standard requirements for the registration of child and youth care workers. Council is only obliged to consult the boards in keeping registers for social service practitioners. Thus in terms of the Bill, boards are not consulted on the registration qualifications or on considering and deciding on applications for registration or renewal of registration.

*These powers are not mandatory functions, so Council can choose to act on certain powers and not others*

In section 6 of the Bill the powers of Council are set out regarding education, training and development. Council has to, amongst other things, make recommendations to the Minister about the minimum standards of education, training and development applicable to social service practitioners. Furthermore, Council must control the quality assurance processes of education, training and development for practitioners and promote national and international liaison in the field of education, training and development for practitioners. Council is also obliged to consult the Council for Higher Education and the South African Qualifications Authority (SAQA) regarding education, training and development for social service practitioners. The Bill also makes provision for Council to recognize the qualifications or education, training and development programmes of institutions, and Council may also withdraw such recognition. The qualifications of a person could also be recognized by

Council as being equal to a prescribed qualification in certain instances. In other words, Council is able to recognize foreign qualifications. Council is obligated to take into account the policies and procedures of SAQA other statutory authorities when it comes to the education, training and development powers of Council.

## **Powers of Social Service Occupational and Professional Boards**

The professional and occupational boards are given almost identical powers in the Bill. Sections 24 and 29 respectively set out the powers of the different boards. As said earlier, Council has the power to set policies on different issues for social service practitioners. The boards therefore have to exercise their powers – subject to those policies determined by Council. Some of the powers of the boards relate to the boards advising Council on matters affecting a specific profession or occupation. The boards may also make representation to Council concerning any rules or regulations that apply or will apply to

*The Bill does not oblige Council to consult the boards on the minimum qualifications and standards for registration. So for example, the child and youth care board would not be able to influence Council on minimum qualifications and competency standard requirements for the registration of child and youth care workers.*

*Council has to, amongst other things, make recommendations to the Minister about the minimum standards of education, training and development applicable to social service practitioners.*

that particular board. Social service occupational or professional boards can also consult and liaise with other social service boards, and they have the power to exercise effective control over the professional conduct of social service practitioners falling under the respective boards. The boards are empowered to promote, protect and maintain the dignity and integrity of the social service profession or occupation falling under the professional or occupational board.

The one difference in the powers of the boards relates to the fact that the professional boards can establish joint standing committees for the boards concerned, but there is not a similar allowance made for occupational boards. This is probably because the Bill allows for more than one profession to be overseen by one board.

## **Composition of social service occupational and professional Boards**

The Minister, on the recommendation of Council, makes regulations about the constitution and term of office of members of professional and occupational boards. The Bill gives no overall indication of how many members should be on a professional or occupational board; however Section 23(3) requires that 50% of the

members on the professional board must be elected by members of the social service profession or professions; whereas section 28 (3) dealing with occupational boards states that 'two persons must represent the interests of the occupation for which the board has been established', there is no requirement for elections nor that the majority of members be representatives of the occupation. Both professional and occupational boards must include representatives of the Department of Social Development, education and training institutions and two persons representing the community.

## **Conclusion**

The relationship between the Council and the Minister is worded to appear as advisory; but in fact it confers most of the powers to the Council. On all aspects that the Minister is required to act, it is always upon the recommendation of the Council. Council has powers over policy issues and although the professional boards may have their own policies, such policies are subject to Council's policies. Council has powers over registration which includes recommending minimum qualifications, practical training, and competency standards: and, Council considers and determines applications for registration and renewal of registration. Council also has powers over education and training of social service practitioners; it recommends to the Minister the minimum standards,

*The boards are empowered to promote, protect and maintain the dignity and integrity of the social service profession or occupation falling under the professional or occupational board*

has control over the quality assurance, and may recognise qualifications or education and training programmes of education and training institutions. The existence and functioning of professional and occupational boards appears to be dependent on Council's approval. Although established by the Minister the regulations are promulgated by the Minister on on the recommendation of Council In performing its functions and exercising its powers, a professional board must conform to the policies determined by the Council.

A professional or occupational board wishing to amend or withdraw any regulation must make representations to the Council. On education and training, professional boards only promote liaison and promote the standard of education and training. What appears to be an absolute power granted to professional boards, is that it may exercise effective control over the professional conduct of its members, protect, promote and maintain dignity of its professions. ▀

*The relationship between the Council and the Minister is worded to appear as advisory; but in fact it confers most of the powers to the Council.*