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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF SOCIAL DEVELOPMENT DEPARTEMENT VAN MAATSKAPLIKE ONTWIKKELING

No. R. 1493

29 November 2002

REGULATIONS REGARDING THE CONDUCTING OF INQUIRIES INTO ALLEGED UNPROFESSIONAL CONDUCT

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

Interested parties are invited to submit written comments on the proposed regulations within thirty days of publication of this notice, by –

- (a) mailing comments to the Registrar, S A Council for Social Service Professions, Private Bag X2, Hatfield, Pretoria, 0028; or
- (b) faxing comments to the Registrar, S A Council for Social Service Professions at (012) 342 3025; or
- (c) delivering comments to the Registrar, S A Council for Social Service Professions, 2nd Floor, DRU Building, 413 Hilda Street, Hatfield, Pretoria; and or
- (d) E-Mailing comments to the Registrar at sacssp@lantic.net.

SCHEDULE

DEFINITIONS

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

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

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

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

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

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

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

“*preliminary inquiry*” shall mean an inquiry held in terms of regulations 5 – 15 of these regulations;

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

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

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

CONSTITUTION OF A PROFESSIONAL CONDUCT COMMITTEE AND A COMMITTEE OF PRELIMINARY INQUIRY

2. (1) Subject to the provisions of subregulation (2) a committee appointed in terms of section 21(7) of the Act, functioning as a professional conduct committee, shall consist of not more than five, but not less than three persons, who are designated by the council, and of whom at least one person shall be a member of the council and one other person shall be a member of the professional board concerned when such a board has been established: Provided that the majority of the members be members of the council and/or professional board concerned.

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

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

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

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

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

PROCESS TO INSTITUTE A PRELIMINARY OR DISCIPLINARY INQUIRY

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

(a) a written explanation by the person lodging such complaint; or

(b) the submission of any facts, circumstances, allegations or indications that in any way whatsoever may have come to the knowledge of the council; or

(c) the reference of a record or portion thereof by a court of law as contemplated in section 23 of the Act or any other body.

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

PROCEDURE AFTER RECEIVING A COMPLAINT

4. (1) The Registrar, or designated official, shall investigate the complaint referred to the Council in terms of regulation 3(1).

(2) The registrar or designated official, may at his or her discretion during his or her investigation of the complaint, if he or she deems it necessary –

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

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

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

(d) seek legal advice or any other assistance to enable the registrar to perform his or her functions in terms of these regulations; and

(e) on the request of the complainant, and as far as the registrar is legally obliged to, furnish the complainant with a copy of the respondent's reply if the registrar or designated official received a response from the respondent.

(3) Following an investigation subject to the provisions of subregulation (4) the registrar or designated official may –

(a) if he or she is of the opinion that a further inquiry in terms of these regulations would not be appropriate, inform the complainant and the respondent, if applicable, accordingly;

(b) if he or she is of the opinion that the matter can be resolved amicably, procure a settlement between the complainant, respondent and/or any other parties involved;

(c) if he or she is of the opinion that the matter does not fall within the jurisdiction of the council, refer the matter to an appropriate body;

(d) if he or she is of the opinion that further inquiry in terms of these regulations would be appropriate, refer the matter to the committee of preliminary inquiry, with the relevant documentation; and

(e) if he or she is of the opinion that a disciplinary inquiry would be appropriate refer the matter directly to the professional conduct committee.

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

REFERRAL TO THE COMMITTEE OF PRELIMINARY INQUIRY

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

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

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

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

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

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

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

(1) The nature of the complaint.

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

(3) The complexity of the unprofessional conduct.

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

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

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

(1) if it is of the opinion that a complaint, even if it is proven, does not constitute unprofessional conduct, or that the complaint for any other reason should not be subjected to an inquiry, the committee shall take such steps as it may deem necessary and report such steps to the council;

(2) if it is of the opinion that the matter can be resolved amicably, procure a settlement between the complainant, respondent and/or any other parties involved;

(3) if it is of the opinion that the matter does not fall within the jurisdiction of the council, refer the matter to an appropriate body;

(4) if it is of the opinion that a further preliminary inquiry be held, instruct the registrar to prepare the inquiry in terms of regulation 8; and

(5) refer the matter for a disciplinary inquiry in terms of regulation 16.

INQUIRY BY THE COMMITTEE OF PRELIMINARY INQUIRY

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

(1) the date, time and place of the preliminary inquiry;

(2) his or her right to be present at the preliminary inquiry and to present his or her case to the committee of preliminary inquiry;

(3) the fact that he or she is not entitled to legal representation at the preliminary inquiry; and

(4) a written exposition containing –

(a) the nature of the complaint;

(b) the consequences of the alleged unprofessional conduct for the complainant, the general public, council, the respondent, the profession or any other interested party;

(c) the severity of the alleged unprofessional conduct;

(d) the penalty which the committee of preliminary inquiry anticipates could be imposed by the professional conduct committee; and

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

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

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

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

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

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

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

in order to rebut the contents of the exposition.

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

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

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

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

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

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

PREPARATORY PROCEDURES TO A DISCIPLINARY INQUIRY

16. On receipt of a directive referred to in regulation 7(4), 11(3) or 15(1), the registrar or designated official shall arrange for a disciplinary inquiry to be held and he or she shall submit the supporting documents in preparation of the charge sheet to the designated complainant.

17. (1) The registrar or designated official shall issue a summons essentially in the form of Annexure B hereto, addressed to the respondent informing him or her –
- (a) of the date, time and place of the disciplinary inquiry;
 - (b) of the particulars of the complaint;
 - (c) that he or she may reply in writing to the complaint set forth in the summons, but warning him or her at the same time that any such reply may be used as evidence in the disciplinary inquiry; and
 - (d) what document, photo, computer record, contract, book, item, article, administrative or financial record or computer data relevant to the complaint should be brought to the inquiry.
- (2) The summons referred to in subregulation (1), shall be served on the respondent at his or her residential address or forwarded to him or her at his or her postal address by registered letter, or confirmed fax or electronic mail, as the case may be, as entered into the register referred to in section 19 of the Act.
- (3) A registered person duly notified in accordance with this regulation shall appear at the time and place specified in the summons unless, before the disciplinary inquiry he or she has informed the registrar in writing by means of a personally signed letter that he or she pleads guilty to the complaint against him or her.
- (4) Any person referred to in subregulation (3) who has been duly notified in accordance with this regulation, and who refuses or, without a reason acceptable to the inquiring body, fails to appear at the time and place specified in the summons, shall be guilty of an offence and liable, on conviction, to a fine not exceeding R1 000 or, in default of payment, imprisonment for a period not exceeding three months, or both such fine and such imprisonment.

PROCEDURE AT A DISCIPLINARY INQUIRY

18. (1) Every disciplinary inquiry shall be conducted by the council or by the professional conduct committee.
- (2) If the summons referred to in regulation 17(1) has been served on or forwarded to the respondent as prescribed by regulation 17(2), the inquiring body may proceed with the disciplinary inquiry even if the respondent is not present.
- (3) If the respondent is present, the designated complainant shall read out the complaint contained in the summons addressed to the respondent.
- (4) (a) The respondent, if present, shall then be asked by the chairperson to plead guilty or not guilty to the complaint against him or her: Provided that if, before the disciplinary inquiry, the respondent has informed the registrar or designated official in writing by means of a personally signed letter that he or she pleads guilty to the complaint, such plea of guilty may be entered as a plea in his or her absence.
- (b) If the respondent pleads not guilty, the inquiring body shall proceed to hear evidence pertaining to the complaint.
- (c) If the respondent pleads guilty, it shall be for the inquiring body to decide whether or not it wishes to hear evidence regarding the complaint.

(d) If the respondent refuses or fails to plead directly to the complaint, or if the respondent is absent and the summons has been served on or forwarded to him or her as prescribed by regulation 17(2) and he or she has not informed the registrar or designated official in writing that he or she pleads guilty as referred to in paragraph (a), the chairperson shall make a note of such fact and enter a plea of not guilty on behalf of the respondent, and a plea thus entered shall have the same effect as if it had in fact been so pleaded.

(5) (a) Where evidence pertaining to any complaint is to be adduced either because the respondent has pleaded not guilty or because the inquiring body has resolved that evidence is to be adduced, the designated complainant shall be given the opportunity of stating his or her case and thereafter of leading evidence in support thereof.

(b) Upon conclusion of leading such evidence the designated complainant's case shall be closed.

(6) (a) If the respondent is present or is represented by a legal representative, he or she or his or her legal representative shall be given the opportunity of stating his or her case and thereafter of leading evidence in support thereof.

(b) If the respondent is neither present nor represented, any writing, statement, explanation or defence submitted by him or her as a result of a request in terms of regulation 4(b) or as a result of the summons issued in terms of regulation 17(1), or both, shall be read out to the inquiring body and received as evidence.

(c) After the respondent or his or her legal representative has led his or her evidence or, in the place thereof, his or her written exposition, statement, explanation or defence has been read, his or her case shall be closed.

(7) If the inquiring body deems it advisable that further evidence be adduced in order to enable it to arrive at a just decision, it may call further witnesses as it deems fit and may allow further evidence to be led either by the designated complainant or by the respondent or his or her legal representative, or by both parties, after their cases have been closed.

(8) After all the evidence has been led, the designated complainant shall be allowed to address the inquiring body on the evidence and the legal position, and this shall be allowed whether or not the respondent has led evidence.

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

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

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

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

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

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

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

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

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

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

22. (1) Upon the conclusion of the case, the inquiring body shall deliberate thereon in the absence of the complaint, the respondent and their witnesses.

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

(3) If the inquiring body has determined, regarding a complaint, that sufficient facts have been proved to its satisfaction to support such complaint, it shall decide whether the conduct that is the subject of the complaint so supported, constitutes unprofessional conduct, and it shall announce its finding in this regard.

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

(5) (a) (i) Proof of previous convictions under the Act shall be adduced by means of a certificate to be issued under the hand of the registrar.

(ii) Such certificate shall specify the complaint brought against the respondent at the time, as well as the finding, the date thereof and the penalty imposed.

(b) The respondent shall be entitled to challenge the correctness of such certificate, in which case a certified copy of the minutes shall be produced or, if such minutes have been destroyed, a certified copy of the relevant extract from the register concerned, referred to in section 19 of the Act.

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

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

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

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

(10) (a) If a penalty is imposed on a registered person in terms of section 22(1) of the Act, such penalty shall be put in writing and signed by the chairperson, and the respondent and complainant informed thereof by the Registrar.

(b) The registrar may, after the registered person has been informed of his or her penalty, publish in the Government Gazette the name of such person and the penalty so imposed.

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

(a) a duplication of disciplinary inquiries may be avoided or limited by a simultaneous hearing of two or more such disciplinary enquiries.

(b) none of the respondents would be detrimentally affected by such a simultaneous disciplinary inquiry, he or she may direct that the disciplinary enquiries against such respondents, be heard simultaneously.

(2) The chairperson, at a simultaneous disciplinary inquiry referred to in subregulation (1), shall apply the provisions of regulations 18 to 22 on the basis that every reference in it to the respondent or his or her legal representative shall be applied alternately on the respondents in the order determined by the chairperson.

(3) (a) Any respondent may, at any time prior to or during a simultaneous disciplinary inquiry, request a separate hearing.

(b) If the inquiring body is of the opinion that the respondent concerned has indicated good reasons for such separation of the disciplinary inquiry, the proceedings relating to that respondent shall be suspended and the respondent concerned shall be heard separately by an inquiring body constituted of other members.

(4) If the inquiring body deems it advisable, separation of a disciplinary inquiry referred to in subregulation (3) may take place on the basis that two or more of the respondents may be heard together separately.

24. (1) (a) In case of common relevancy of facts or circumstances between two or more disciplinary inquiries, no member of any inquiring body shall serve at more than one such disciplinary inquiry.

(b) If such commonality is revealed during the course of a disciplinary hearing and it appears further that the same member is serving at more than one such disciplinary inquiry that have already commenced and the circumstances are such that he or she may possibly be influenced by the proceedings at one disciplinary inquiry concerning his or her view of another, the proceedings concerned at such disciplinary inquiry shall take place anew before an inquiring body consisting of different members.

(2) The provisions of this regulation shall not be interpreted so as to preclude a simultaneous hearing referred to in regulation 23.

25. (1) The proceedings of a disciplinary inquiry shall be accessible to the public: Provided that –

(a) any decision of the inquiring body with regard to any matter relating to or arising during an inquiry may be taken in the absence of any other party attending the hearing;

(b) any evidence submitted during a disciplinary inquiry, upon submission of valid reasons, may, at the discretion of the inquiring body, be heard *in camera*.

(c) upon submission of valid reasons, the inquiring body may, at its discretion, direct that no person shall, at any time and in any manner, publish any information that is likely to reveal the identity of a specific person, excluding that of the respondent.

(2) Any person who contravenes or fails to obey a directive issued in terms of subregulation (1) shall be guilty of an offence and liable, on conviction in a court of law, to a fine not exceeding R1000.

SUBPOENA

26. (1) A subpoena issued by the registrar or a committee of preliminary inquiry in terms of the regulations, to a person to appear as a witness at any investigation or inquiry, or to produce a book, document or record at any investigation or inquiry shall be essentially in the form of Annexure C to these regulations.

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

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

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

REPEAL

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

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

COMMENCEMENT

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

Annexure A

SOUTH AFRICAN COUNCIL FOR SOCIAL SERVICE PROFESSIONS

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

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

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

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

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

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

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

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

Given under my hand this day of 20.....

.....
REGISTRAR

Annexure B

SOUTH AFRICAN COUNCIL FOR SOCIAL SERVICE PROFESSIONS

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

Summons

To:
 (name and address of respondent)

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

.....

You are further instructed to bring with you in terms of regulation 17(1)(d) the following items:

.....

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

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

Should you desire your letter dated (or any further written communication you may wish to submit) to constitute your explanation or defence, please notify me to that effect as soon as possible and not later than You are hereby warned that any such communication may be used as evidence in the disciplinary inquiry.

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

Given under my hand this day of 20.....

.....

REGISTRAR

* Legal representative means an advocate or an attorney.

Annexure C

SOUTH AFRICAN COUNCIL FOR SOCIAL SERVICE PROFESSIONS

FORM OF SUBPOENA TO APPEAR BEFORE:

1. THE S A COUNCIL FOR SOCIAL SERVICE PROFESSIONS;
2. THE REGISTRAR OR DESIGNATED OFFICIAL OF THE COUNCIL;
3. A COMMITTEE OF PRELIMINARY INQUIRY OF THE COUNCIL; OR
4. THE PROFESSIONAL CONDUCT COMMITTEE OF THE COUNCIL

To:
..... (name and address of person summoned)

You are hereby instructed to appear before theof the Council,
established in terms of the *Social Service Professions Act*, 1978 (Act 110 of 1978), at
..... (place) on the day of 20.....at
(time), to give evidence regarding and you are
directed to bring with you (specify the book, document or record).

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

Given under my hand this day of 20.....

.....
REGISTRAR
