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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1516.

4 October 1995

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 52 of 1995: Social Work Amendment Act, 1995.

No. 1516.

4 Oktober 1995

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 52 van 1995: Wysigingswet op Maatskaplike Werk, 1995.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Social Work Act, 1978, so as to amend certain definitions and to define certain expressions; to provide for the establishment of the South African Interim Council for Social Work; and to provide for the abolition of the South African Council for Social Work; to provide for the rationalisation of certain laws relating to social workers that remained in force in the various areas of the national territory of the Republic by virtue of section 229 of the Constitution; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 28 September 1995.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 110 of 1978, as amended by section 1 of Act 68 of 1985, section 1 of Act 48 of 1989 and section 1 of Act 22 of 1993

1. Section 1 of the Social Work Act, 1978 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of "council" of the following definition:
 " 'council' means [a council] the South African Interim Council for Social Work established by section 2;";

(b) by the substitution for the definition of "Director-General" of the following definition:

" 'Director-General' means the Director-General: [National Health and Population Development] Welfare;";

(c) by the insertion after the definition of "Director-General" of the following definition:

" 'electorate' means all registered social workers, all registered student social workers and all registered social auxiliary workers;";

(d) by the insertion after the definition of "financial year" of the following definition:

" 'former council' means the South African Council for Social Work established by section 2 of this Act prior to the amendment of the said section 2 by the Social Work Amendment Act, 1995;"; and

- (e) by the substitution for the definition of "Minister" of the following definition:
 " 'Minister' means the Minister [of National Health] for Welfare and Population Development;"

Substitution of heading to Chapter I of Act 110 of 1978, as substituted by section 2 of Act 22 of 1993

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2. The following heading is hereby substituted for the heading to Chapter I of the principal Act:

"Interim Council for Social Work".

Substitution of section 2 of Act 110 of 1978, as substituted by section 2 of Act 48 of 1989

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3. The following section is hereby substituted for section 2 of the principal Act:

"Establishment of Interim Council for Social Work

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

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

Amendment of section 3 of Act 110 of 1978, as substituted by section 3 of Act 48 of 1989 and amended by section 3 of Act 22 of 1993

4. Section 3 of the principal Act is hereby amended by the addition of the following paragraphs:

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"(k) to make recommendations to the Minister on the constitution of a new council within a period not exceeding three years from the date of the commencement of the Social Work Amendment Act, 1995;

(l) to advise the Minister on the amendment or adaptation of this Act, in particular to place greater emphasis on professional practice, democracy, transparency, equity, accessibility and community need and involvement;

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(m) to consult with, and to promote research by and amongst, social workers, student social workers and social auxiliary workers; and

(n) to investigate additional sources of funding for the council."

Amendment of section 4 of Act 110 of 1978, as amended by section 3 of Act 68 of 1985 and section 4 of Act 48 of 1989

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5. Section 4 of the principal Act is hereby amended by the deletion of subsection (2).

Substitution of section 5 of Act 110 of 1978

6. The following section is hereby substituted for section 5 of the principal Act:

"Constitution of council

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5. (1) The council shall consist of the following members, namely—

(a) one person from each province, registered as a social worker in terms of this Act and elected in the prescribed manner by the electorate of his or her province;

(b) two representatives from training institutions, elected in the prescribed manner by the electorate from nominations by the training institutions;

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(c) two other persons, elected in the prescribed manner by the electorate from nominations by national forums and networks in the welfare, social services and development field; and

(d) a social worker, elected in the prescribed manner by the electorate from nominations by the Minister.

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(2) For every member of the council elected in terms of subsection (1), there shall be an alternate member elected in the same manner as such member, and any alternate member so elected may attend and take part in the proceedings at any meeting of the council whenever the member for whom he or she has been elected as alternate member is absent from such meeting.

(3) The names of the members and alternate members of the council and the date of commencement of their period of office shall be published by the registrar in the *Gazette* as soon as possible after the constitution of the council.

(4) Subject to the provisions of section 6, the members and alternate members of the council shall hold office from the date contemplated in subsection (3) until the date of the constitution of a new council: Provided that they shall not hold office for a period exceeding three years.

Substitution of section 6 of Act 110 of 1978

7. The following section is hereby substituted for section 6 of the principal Act:

“Qualifications of members and alternate members of council, vacation of office and filling of vacancies

6. (1) No person shall be elected as a member or alternate member of the council unless—

- (a) he or she is a South African citizen; and
- (b) he or she satisfies the prescribed requirements with regard to the nomination and election of members or alternate members.

(2) A member or alternate member of the council shall vacate his or her office if—

- (a) he or she ceases to comply with the requirements referred to in subsection (1);
- (b) in the case of a member of the council, he or she is absent from more than two consecutive ordinary meetings of the council without the permission of the council;
- (c) he or she tenders his or her resignation in writing to the president of the council; or
- (d) the Minister, at the request of not less than two-thirds of the members of the council and after consultation with the council, in the public interest terminates his or her membership.

(3) Any vacancy on the council arising from a circumstance referred to in subsection (2) or caused by the death of a member, shall be filled by the alternate member to the vacating or deceased member, and every such alternate member shall hold office for the unexpired portion of the period for which the vacating or deceased member had been elected.

(4) Any vacancy on the council arising from a circumstance referred to in subsection (2) or caused by the death of a member, and which cannot be filled by an alternate member, shall be filled by election in the manner in which the vacating or deceased member was required to be elected, and every member so elected shall hold office for the unexpired portion of the period for which the vacating or deceased member had been elected.

(5) A vacancy which arises as contemplated in subsection (4), within a period of six months before the period of office of a member of the council expires, shall not be filled.

(6) If the election of a member or alternate member of the council has not in all respects taken place in the prescribed manner, or if an irregularity with regard to such election has taken place, and the omission to comply with the prescribed requirements or the said irregularity does not justify the annulment of the election, the Minister may order what steps should be taken to achieve the objects of this Act with regard to such election, and he

or she may condone such omission or irregularity and may, notwithstanding such omission or irregularity, declare the election of a member or alternate member thus elected, to be valid.”.

Amendment of section 11 of Act 110 of 1978, as amended by section 4 of Act 68 of 1985 and section 4 of Act 22 of 1993

8. Section 11 of the principal Act is hereby amended—

- (a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:

“(1) Subject to the provisions of [subsections] subsection (3), [and (4)] the council shall appoint a registrar.

(2) The registrar shall exercise the powers and perform the functions which from time to time are conferred or imposed upon him or her by or under this Act or any other act or by the council [and shall, in the case of a registrar referred to in subsection (4), be subject to the administrative control of the Director-General].

(3) The appointment and dismissal of the registrar shall [except in the case of a registrar referred to in subsection (4)] be subject to the approval of the Minister.”; and

- (b) by the deletion of subsection (4).

Amendment of section 13 of Act 110 of 1978

9. Section 13 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) The records, statements of account and balance sheet referred to in subsection (1), shall be audited by a person registered as an accountant and auditor under the Public Accountants’ and Auditors’ Act, [1951 (Act No. 51 of 1951)] 1991 (Act No. 80 of 1991), and appointed by the council.”.

Insertion of section 28A in Act 110 of 1978

10. The following section is hereby inserted in the principal Act after section 28:

“Abolition of former council, and transitional arrangements

28A. The former council shall cease to exist on the day immediately preceding the date of the first meeting of the council, and all rights, obligations, assets and liabilities acquired or incurred, as the case may be, by the former council shall immediately vest in the council and the council shall be deemed to have acquired or incurred such rights, obligations, assets and liabilities in terms of this Act.”.

Substitution of long title of Act 110 of 1978, as substituted by section 18 of Act 48 of 1989

11. The following long title is hereby substituted for the long title of the principal Act:

“ACT

To provide for the establishment of a South African Interim Council for Social Work and to define its powers and functions; for the registration of social workers, student social workers and social auxiliary workers; for control over the profession of social work; and for incidental matters.”.

Repeal of laws, and savings

12. (1) Subject to the provisions of this section, the laws mentioned in the second column of the Schedule are, from the date on which the South African Council for Social Work is abolished in terms of section 28A of the principal Act, repealed as indicated in the third column of the Schedule, to the extent that such laws were in force in the various

areas of the national territory of the Republic as set out in the fourth column of the Schedule, immediately prior to the commencement of the Constitution.

(2) Any proclamation, notice, regulation, authorization or order issued, made, granted or done in terms of a provision of any law repealed in terms of subsection (1) shall, unless inconsistent with any provision of the principal Act, be deemed to have been issued, made, granted or done under the corresponding provision of the principal Act, and shall remain in force until withdrawn or repealed, as the case may be, by the South African Interim Council for Social Work established by section 2 of the principal Act (in this section referred to as the interim council).

(3) Any registration of a person, any removal from a register, any appointment or any other thing done in terms of a provision of any law repealed in terms of subsection (1), shall be deemed to have been done under the principal Act.

(4) The registers kept in terms of a provision of any law repealed in terms of subsection (1) shall be kept up to the date of the first meeting of the interim council, and shall then be incorporated with and form part of the appropriate registers required to be kept in terms of the principal Act.

(5) Notwithstanding the provisions of subsection (1), any inquiry into alleged unprofessional or improper conduct by a social worker, student social worker or social auxiliary worker which has not been concluded at the date of the first meeting of the interim council shall be continued and concluded by the interim council in accordance with the provisions of the law under which the inquiry was instituted, as if such law had not been repealed.

(6) Notwithstanding the provisions of subsection (1), the interim council shall have the power to institute and conclude disciplinary proceedings under the relevant provisions of the repealed laws in accordance with the procedures as prescribed by regulations made under section 28 of the principal Act, against any person who, at any time prior to the first meeting of the interim council, is alleged to have committed an act which may have constituted unprofessional or improper conduct in terms of the provisions of the repealed laws or any regulation made thereunder: Provided that the interim council shall not institute proceedings against any person, unless the nature of the contravention which such person is alleged to have committed in terms of the repealed laws or any regulation made thereunder, is substantially the same as that of a contravention contemplated in the corresponding provisions of the principal Act or any regulation made thereunder.

(7) Any act performed or decision taken in terms of a provision of any law repealed in terms of subsection (1), shall be deemed to have been performed or to have been taken, as the case may be, in terms of the corresponding provisions of the principal Act.

(8) The person who was the registrar of the South African Council for Social Work immediately prior to the date referred to in subsection (1), shall continue to hold office and to perform the functions assigned to him or her in terms of the principal Act, as well as such functions as may be or may have been assigned to him or her by the said Council or the interim council, until a registrar has been appointed by the interim council in accordance with the provisions of section 11 of the principal Act.

(9) Notwithstanding any provision of the principal Act, the members of the South African Council for Social Work shall continue as such until the day immediately preceding the date of the first meeting of the interim council.

Extension of application of Act 110 of 1978

13. The principal Act shall, from the date referred to in section 12(1), apply throughout the Republic.

Short title

14. This Act shall be called the Social Work Amendment Act, 1995, and section 12(9) shall be deemed to have come into operation on 25 August 1995.

SCHEDULE**LAWS REPEALED BY SECTION 12**

Number and year of law	Short title	Extent of repeal	Area of national territory in respect of which law is repealed
Act No. 79 of 1965	National Welfare Act, 1965	In so far as it relates to social workers	The territories of the former Republics of Transkei, Venda and Ciskei and the territories of the former self-governing territories of Lebowa, Gazankulu and Qwaqwa
Act No. 110 of 1978	Social Work Act, 1978	The whole	The territories of the former self-governing territories of KwaNdebele and KaNgwane
Act No. 26 of 1986	Social and Associated Workers Act, 1986	The whole	The territory of the former Republic of Bophuthatswana
Act No. 17 of 1993	KwaZulu Social Work Act, 1993	The whole	The territory of the former self-governing territory of KwaZulu