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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Selling price • Verkoopprijs
(GST excluded/AVB uitgesluit)

Local **50c** Plaaslik
Other countries 70c Buitelands
Post free • Posvry

Vol. 287

CAPE TOWN, 12 MAY 1989

No. 11860

KAAPSTAD, 12 MEI 1989

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 907.

12 May 1989

No. 907.

12 Mei 1989

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

No. 48 of 1989: Social Work Amendment Act, 1989.

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

No. 48 van 1989: Wysigingswet op Maatskaplike Werk, 1989.

Act No. 48, 1989

SOCIAL WORK AMENDMENT ACT, 1989

GENERAL EXPLANATORY NOTE:

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

ACT

To amend the Social and Associated Workers Act, 1978, so as to delete the definitions of “associated profession”, “associated worker” and “social work”, to insert definitions of “social auxiliary worker” and “training institution”, and to amend certain definitions; to change the designation “Council for Social and Associated Workers” to “South African Council for Social Work”; to provide that the quorum for and procedure at meetings of the executive committee shall be prescribed; to increase fines; to provide when qualifications will not serve as prescribed qualifications; to provide for the registration of additional qualifications and specialities; to provide for the registration of social auxiliary workers; to make further provision in connection with inquiries by the council into alleged unprofessional or improper conduct; to empower the council in disciplinary inquiries to postpone the imposition of a penalty or to suspend the execution of a penalty; to make further provision in connection with the conducting of disciplinary inquiries by the council; to extend the powers of the Minister to make regulations; and to extend the period of office of members of the Council for Social and Associated Workers; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 27 April 1989.)

BE IT ENACTED by the State President and 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

1. Section 1 of the Social and Associated Workers Act, 1978 (hereinafter referred to as the principal Act), is hereby amended—
- by the deletion of the definitions of “associated profession” and “associated worker”;
 - by the substitution for the definition of “Director-General” of the following definition:
“‘Director-General’ means the Director-General: National Health and **[Welfare]** Population Development;”;
 - by the substitution for the definition of “Minister” of the following definition:
“‘Minister’ means the Minister of National Health and **[Welfare]** Population Development;”;
 - by the insertion after the definition of “rule” of the following definition:
“‘social auxiliary worker’ means a person registered under section 18;”;

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- (e) by the deletion of the definition of 'social work';
- (f) by the insertion after the definition of "this Act" of the following definition:
 "‘training institution’ means a university, college or other institution where a qualification can be obtained which complies with the requirements of prescribed qualifications as contemplated in section 17;” and 5
- (g) by the substitution for the definition of "unprofessional or improper conduct" of the following definition:
 "‘unprofessional or improper conduct’ [means] includes conduct contemplated in section 27 (1) (c).”.

Substitution of section 2 of Act 110 of 1978

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2. (1) The following section is hereby substituted for section 2 of the principal Act:

“Establishment of Council for Social Work

2. There is hereby established a juristic person to be known as the South African Council for Social [and Associated Workers] Work.”.

- (2) Any reference in any law or document to the Council for Social and Associated Workers shall be construed as a reference to the South African Council for Social Work. 15

Substitution of section 3 of Act 110 of 1978, as amended by section 2 of Act 68 of 1985

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

“Objects of council

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3. The objects of the council shall be—

- (a) to protect the interests of the profession of social work and to deal with any matter relating to such interests;
- (b) to maintain and enhance the prestige, status and dignity of the profession of social work and the integrity of social workers, student social workers and social auxiliary workers; 25
- (c) to advise the Minister in relation to any matter affecting the profession of social work;
- (d) to determine the minimum standards of tuition and training of social workers; 30
- (e) to encourage the study of social work;
- (f) to determine the qualifications for registration as social workers and social auxiliary workers;
- (g) to regulate the practising of the profession of social work and the registration of social workers, student social workers and social auxiliary workers; 35
- (h) to determine the standards of professional conduct of social workers, student social workers and social auxiliary workers and to ensure that they are maintained;
- (i) to exercise effective control over the professional conduct of social workers, student social workers and social auxiliary workers; 40
- (j) to encourage and promote efficiency in and responsibility with regard to the practice of the profession of social work.”.

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

4. Section 4 of the principal Act is hereby amended by the substitution for paragraphs (g) and (h) of subsection (1) of the following paragraphs, respectively:

- “(g) establish, support, administer or assist in the establishment or administration of pension funds or provident funds or pension schemes and medical aid schemes or medical benefit schemes for social **[and associated]** workers and social auxiliary workers and **[such ex-workers]** former social workers and social auxiliary workers and for the staff of the council and for the dependants of **[such]** social **[and associated]** workers and social auxiliary workers and **[ex-workers]** former social workers and social auxiliary workers and of the staff;
- (h) undertake or cause to be undertaken any research or study on any matter relating to the profession of social work **[or to any associated profession]**.”

Amendment of section 9 of Act 110 of 1978

5. Section 9 of the principal Act is hereby amended by the addition of the following subsection:

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

Substitution of section 15 of Act 110 of 1978, as amended by section 6 of Act 68 of 1985

6. The following section is hereby substituted for section 15 of the principal Act:

“Unregistered person not to practise the profession of social work

15. (1) No person shall—

- (a) for gain, directly or indirectly, in any manner whatsoever practise the profession of social work, unless he has been registered under this Act as a social worker or is deemed to have been so registered **[or practise an associated profession, unless he has been registered under this Act as a social worker or is deemed to have been so registered, or has been registered under this Act as an associated worker in respect of that associated profession]**;
- (b) give instruction on any aspect of the subject Social Work at a training institution, unless he has been registered under this Act as a social worker, or is a person who is not permanently resident in the Republic and who, with the approval of the council, gives instruction in an aspect of the subject Social Work determined by the council at a training institution in the Republic determined by the council;
- (c) in any manner pretend to be a social worker, student social worker, or **[associated]** social auxiliary worker, while he has not been registered under this Act as a social worker, student social worker or **[associated]** social auxiliary worker, as the case may be.

(2) In so far as any person undergoes practical training in social work as a requirement for the acquisition of a prescribed qualification at a training institution, he shall be deemed not to practise the profession of social work, provided he has been registered in terms of this Act as a student social worker and such practical training takes place under the supervision of a social worker.

(3) The provisions of subsection (1) shall not apply—

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- (a) to any person who has satisfied all the requirements for the prescribed qualifications and whose application for registration as a social worker, student social worker or **[associated] social auxiliary worker** under this Act is under consideration by the council;
- [(d)] (b)** to any person other than a social worker who is permitted or authorized in terms of the provisions of any other Act of Parliament to perform or apply any act **[activity or method referred to in the definition of 'social work']** which specially pertains to the profession of social work, as the holder of an office or in the ordinary course of the practice of a profession referred to in such act;
- [(e)] (c)** to any person belonging to a category of persons designated by the council for the purposes of this subsection by notice in the *Gazette*.

[(4)] For the purposes of subsections (1) and (2), 'training institution' shall mean any institution where any person undergoes training which after the successful completion thereof will, in the opinion of the council, enable him to satisfy the prescribed qualifications for registration as a social worker.]

[(5)] (4) For the purposes of subsection (1) a person shall be deemed to practise the profession of social work **[or an associated profession]** for gain if he receives any reward for the performance of **[the social work in question or the practice of that associated profession, as the case may be]** any act which specially pertains to the profession of social work."

Amendment of section 16 of Act 110 of 1978

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7. Section 16 of the principal Act is hereby amended by the substitution for the expression "five hundred rand" of the expression "R2 000".

Amendment of section 17A of Act 110 of 1978, as inserted by section 7 of Act 68 of 1985

8. Section 17A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The council may, on application made in the prescribed manner, register as a student social worker any person who studies the subject Social Work at a training institution **[referred to in section 15 (4)]**, and who satisfies the prescribed conditions."

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Insertion of sections 17B and 17C in Act 110 of 1978

9. The following sections are hereby inserted after section 17A of the principal Act:

"When qualification will not serve as prescribed qualification

17B. (1) If it appears to the council that any provision of this Act is not being properly complied with by any training institution and that such improper compliance is having or may have an adverse effect on the standards of tuition and training in social work maintained at that training institution, the Minister may, on the recommendation of the council, by notice in the *Gazette* declare that any specified degree, diploma or certificate awarded by such training institution after a date specified in the notice will not serve as a prescribed qualification.

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

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(3) No qualification obtained by virtue of examinations conducted by a training institution situated outside the Republic shall be prescribed under subsection (1), unless—

- (a) such qualification will entitle the holder thereof to practise as a social worker in the country or state in which such training institution is situated; 5
- (b) the council is satisfied that possession of such qualification indicates a standard of professional tuition and training not lower than that prescribed in respect of the tuition and training of social workers within the Republic. 10

Registration of additional qualifications and specialities

17C. (1) The council may from time to time prescribe the degrees, diplomas or certificates which may be registered as additional qualifications or the proficiencies which may be registered as specialities. 15

(2) A social worker who desires to have a degree, diploma or certificate other than the prescribed qualification by virtue of which he has been registered, or a speciality, registered, shall apply to the registrar, submitting such documentary proof that he holds the additional qualification in question as the council may require, or, in the case of an application for registration of a speciality, submitting proof that he complies with the prescribed requirements, and if the registrar is satisfied that such additional qualification is a degree, diploma or certificate recognized in terms of subsection (1), or, in respect of a speciality, that such speciality has been prescribed and that the prescribed requirements have been complied with, he shall, upon payment of the prescribed fee, cause such degree, diploma or certificate, or speciality, as the case may be, to be entered in the register against the name of the applicant. 20 25

(3) (a) The registrar shall, on the instruction of the council, remove from the register any degree, diploma or certificate registered as an additional qualification in terms of this section, if in respect of such qualification the name of the holder thereof has been removed from the roll, register or records of the university, college or institution, or society at or from which that social worker obtained or acquired such qualification. 30

(b) The registrar shall, on the instruction of the council, remove from the register any speciality registered in terms of this section, if the social worker concerned ceases to comply with any prescribed requirement for the registration of the speciality in question, or, in the case of a social worker in respect of whom a speciality is registered, if such person has lodged with the registrar a written application for the removal of the speciality in question from the register. 35 40

(c) A degree, diploma or certificate removed in terms of paragraph (a), or a speciality removed in terms of paragraph (b), shall, on the instruction of the council, be restored by the registrar to the register if the social worker concerned— 45

- (i) applies on the prescribed form for such restoration;
- (ii) pays the fees (if any) prescribed in respect of such restoration; and
- (iii) in the opinion of the council complies with such other requirements (if any) as the council may determine. 50

(4) No person shall take up, use or publish in any manner whatsoever any name, title, description or symbol indicating or calculated to lead persons to infer that he possesses an additional qualification contemplated in subsection (1), if such qualification has not been entered in the register against his name. 55

(5) No person registered under this Act shall practise as a specialist or shall hold himself out as such a specialist, or shall in any other manner profess to be a person in respect of whom a speciality has been registered, unless the speciality in question has been registered in terms of this section in respect of such person.” 60

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Substitution of section 18 of Act 110 of 1978

10. The following section is hereby substituted for section 18 of the principal Act:

“Registration of social auxiliary workers

18. (1) The council may, on application made in the prescribed manner, register any person as a social auxiliary worker who holds any qualification referred to in subsection (2), complies with the prescribed conditions and satisfies the council that he is a fit and proper person to be registered as a social auxiliary worker. 5

(2) The council may by rule prescribe the qualifications obtained in the Republic which entitle the holder thereof to registration as a social auxiliary worker, and the conditions subject to which such registration may take place. 10

(3) Different qualifications and conditions may be prescribed in respect of different categories of social auxiliary workers.”

Amendment of section 19 of Act 110 of 1978, as amended by section 8 of Act 68 of 1985 15

11. Section 19 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The registrar shall keep separate registers in respect of social workers, student social workers and **[associated]** social auxiliary workers registered in terms of this Act and shall, subject to the provisions of this Act, record in the appropriate register the prescribed particulars in the prescribed manner in respect of every such social worker, student social worker and **[associated]** social auxiliary worker.”. 20

Amendment of section 21 of Act 110 of 1978, as amended by section 10 of Act 68 of 1985 25

12. Section 21 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The council may inquire into alleged unprofessional or improper conduct on the part of a social worker, student social worker or **[associated]** social auxiliary worker, and such inquiry shall not be restricted to the acts or omissions contemplated in section 27 (1) (c).”; 30

(b) by the insertion after subsection (4) of the following subsection:

“(4A) If the record of the proceedings before any court of law is relevant in any inquiry in terms of this section, such record shall upon the mere production thereof be prima facie proof of the facts stated therein.”; and 35

(c) by the substitution for subsection (7) of the following subsection:

“(7) The council may generally or in any specified case appoint a committee in the prescribed manner to **[hold inquiries]** exercise and perform all powers and functions of the council under this Chapter, and if the council so appoints a committee, the **[council’s]** said powers and functions **[with regard to such inquiries]** shall be deemed to have been delegated to or imposed upon the committee.”. 40

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

13. Section 22 of the principal Act is hereby amended— 45

(a) by the insertion after subsection (1) of the following subsection:

“(1A) (a) If the council finds a person guilty in terms of subsection (1) it may—

(i) postpone the imposition of a penalty for such period and on such conditions as it may determine; or 50

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- (ii) impose any penalty referred to in subsection (1) (b) or (c), but order that the execution thereof be suspended for such period and on such conditions as the council may determine.
- (b) (i) If at the end of the period for which the imposition of a penalty has been postponed in terms of paragraph (a) (i), the council is satisfied that the person concerned has complied with all the relevant conditions, the council shall inform him that no penalty will be imposed upon him. 5
- (ii) If any person in respect of whom the imposition of a penalty was suspended under paragraph (a) (i), fails to comply with any of the conditions imposed upon him in terms of that provision and the council is satisfied that the non-compliance with the conditions was not due to circumstances beyond that person's control, the council may impose any of the penalties referred to in subsection (1) as if the imposition of the penalty had never been suspended. 10
- (c) If the execution of a penalty has been suspended in terms of paragraph (a) (ii) and— 15
- (i) the council is satisfied that the person concerned has complied with all the relevant conditions throughout the period of suspension, the council shall inform him that the execution of the penalty will not be put into operation; 20
- (ii) the person concerned fails to comply with any of the conditions of suspension, the council shall put the penalty imposed into operation unless such person satisfies the council that the non-compliance with the condition in question was due to circumstances beyond his control.”; and 25
- (b) by the substitution for subsection (4) of the following subsection:
 “(4) Subject to the provisions of sections 17 (1), 17A (1) and 18 (1), the Council may, after the expiration of such period as the council in each case may determine, again register as a social worker, student social worker or **[associated]** social auxiliary worker, as the case may be, any person whose registration has been cancelled under this Act.”. 30

Substitution of section 23 of Act 110 of 1978

14. The following section is hereby substituted for section 23 of the principal Act:

“Court may direct that copy of record of proceedings be transmitted to council 35

23. Whenever in the course of any proceedings before any court of law, such court is satisfied that there is *prima facie* proof of unprofessional or improper conduct on the part of a registered person, the court may direct that a copy of the record of such proceedings, or such portion thereof as is material to the issue, shall be transmitted to the council. 40

Amendment of section 27 of Act 110 of 1978, as amended by section 12 of Act 68 of 1985

15. Section 27 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph: 45
 “(c) the acts or omissions of a social worker, student social worker or **[associated]** social auxiliary worker which shall constitute unprofessional or improper conduct;”;
- (b) by the deletion of paragraph (j) of subsection (1); 50
- (c) by the substitution for paragraph (a) of subsection (1A) of the following paragraph:
 “(a) the course of conduct to be followed by social workers, student social workers and **[associated]** social auxiliary workers in practising their **[professions]** profession;” 55
- (d) by the substitution for paragraph (c) of subsection (1A) of the following paragraph:

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- “(c) the tariff of fees serving as a guide for the fees which may be charged in respect of professional services rendered by a social worker, student social worker or [associated] social auxiliary worker.”; and
- (e) by the substitution for subsection (2) of the following subsection: 5
 “(2) Different rules may in terms of subsections (1) and (1A) be made in respect of social workers, student social workers and [associated] social auxiliary workers.”.

Amendment of section 28 of Act 110 of 1978, as substituted by section 13 of Act 68 of 1985

16. Section 28 of the principal Act is hereby amended— 10
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: 10
 “(a) the fees which shall be paid annually by social workers, student social workers and [associated] social auxiliary workers to the council, and the fees which shall be paid to the council in respect of— 15
 (i) the registration or re-registration of social workers, student social workers [and associated] or social auxiliary workers, and of additional qualifications, specialities and private practices;
 (ii) the restoration of [the] a qualification, speciality, practice and name of such a social worker, student social worker and social 20 auxiliary worker to a register;
 (iii) any application which shall or may be made under this Act;
 (iv) the issue of registration certificates or copies thereof;
 (v) the provision of extracts from any register;
 (vi) any other act which shall or may be performed by the council or 25 by the registrar under this Act;”;
- (b) by the substitution for subparagraph (i) of paragraph (d) of subsection (1) of the following subparagraph: 10
 “(i) the manner in which any complaint of alleged unprofessional or improper conduct by a social worker, student social worker or 30 [associated] social auxiliary worker shall be lodged with the council;”;
- (c) by the substitution for paragraph (f) of subsection (1) of the following paragraph: 10
 “(f) (i) the registration and conduct of a private practice by a social 35 worker;
 (ii) the professional practices of a social worker conducting a private practice;”;
- (d) by the insertion after paragraph (g) of subsection (1) of the following paragraphs: 10
 “(gA) (i) the requirements to be complied with by an applicant for the 40 registration of a speciality;
 (ii) the conditions subject to which any social worker may practise the profession of social work in respect of a registered speciality;
 (gB) acts which especially pertain to the profession of social work.”.
- (e) by the substitution for subsection (3) of the following subsection: 45
 “(3) Any regulation made under this section may prescribe a penalty for any contravention thereof or failure to comply therewith, not exceeding a fine of [R100] R1 000, or in default of payment, imprisonment for a period not exceeding three months, or both such fine and such such 50 imprisonment.”; and
- (f) by the substitution for subsection (4) of the following subsection: 10
 “(4) Different regulations may under this section be made in respect of social workers, student social workers and [associated] social auxiliary workers, and regulations under—

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- (a) paragraph (a) of subsection (1) may exempt persons or categories of persons from payment of the fees contemplated in that paragraph;
 (b) subsection (1) (c) shall be made after consultation with [the] training institutions [referred to in section 15 (4)] in the Republic;
 (c) subsection (1) (gB) shall be made with the concurrence of the Competition Board established by section 3 of the Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of 1979)." 5

Substitution of section 30 of Act 110 of 1978

17. The following section is hereby substituted for section 30 of the principal Act:

“Short title

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30. This Act shall be called the Social [and Associated Workers] Work Act, 1978 [and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*].”.

Substitution of long title of Act 110 of 1978

18. The following long title is hereby substituted for the long title of the principal Act: 15

“ACT

To provide for the establishment of a South African Council for Social [and Associated Workers] Work and to define its powers and functions; for the registration of social [and associated] workers and social auxiliary workers; for control over the profession of social work [and associated professions]; and for incidental matters.”. 20

Extension of period of office of members of Council for Social and Associated Workers

19. Notwithstanding the provisions of section 5 (2) of the principal Act, any person who immediately prior to the date of commencement of this Act in terms of subsection (1) of the said section is an elected or appointed member of the Council for Social and Associated Workers, shall hold office until 25 August 1992.

Short title

20. This Act shall be called the Social Work Amendment Act, 1989.