



Parliament of
South Australia

REPORT

OF THE

JOINT COMMITTEE

ON THE

SOCIAL WORKERS REGISTRATION BILL 2018

Second Session, Fifty-Fourth Parliament 2020

Table of Contents

EXECUTIVE SUMMARY	4
SUGGESTED RECOMMENDATIONS	6
APPOINTMENT AND TERMS OF REFERENCE	9
THE SOCIAL WORKERS REGISTRATION BILL	9
MEMBERSHIP	9
CONTEXT	9
CONDUCT OF THE INQUIRY	10
STRUCTURE OF THE REPORT	10
ACKNOWLEDGEMENTS	11
CURRENT STATUS OF THE SOCIAL WORK PROFESSION	12
AUSTRALIAN ASSOCIATION OF SOCIAL WORKERS	13
LIMITED REGULATORY OVERSIGHT OF SOCIAL WORKERS	13
GENERAL SUPPORT FOR REGISTRATION	15
National Registration	16
OVERVIEW OF KEY ISSUES: SOCIAL WORKERS REGISTRATION BILL	18
OBJECTIVES OF THE BILL	18
DEFINING SOCIAL WORK	18
Global Definition of Social Work	19
PROTECTION OF TITLE	20
DEFINING THE SCOPE OF SOCIAL WORK	21
NEW ZEALAND EXPERIENCE	23
TERTIARY QUALIFICATIONS FOR REGISTRATION	24
Qualifications no longer Awarded	25
Social Workers with overseas qualifications	25
SOCIAL WORKERS WITHOUT FORMAL QUALIFICATIONS	26
How Many?	26
Transitional Provisions?	27
New Zealand Experience: Social Workers without Formal Qualification	29
FIT AND PROPER	31
CRIMINAL HISTORY CHECK AND VULNERABLE GROUPS	33
CONSTITUTION OF THE BOARD	33
BOARD MEMBERSHIP	35
FUNCTIONS OF BOARD	36
UNPROFESSIONAL CONDUCT AND DISCIPLINARY ACTION	37
New Zealand Experience	37
Separate Tribunal for Disciplinary Matters – New Zealand	38
Public Hearings for Disciplinary Matters	38
COST OF REGISTRATION	39
EXTENDED TIME OUT OF THE PROFESSION	40
STUDENT REGISTRATION	40
CONCLUDING REMARKS	41
APPENDIX 1 - WITNESSES	
APPENDIX 2 - SUBMISSIONS	
APPENDIX 3 - SOCIAL WORKERS REGISTRATION BILL 2018	
APPENDIX 4 - DRAFT SOCIAL WORKERS REGISTRATION BILL 2020	

Executive Summary

In South Australia (and Australia) social workers are not subject to any registration or licensing requirements. There is no regulation in place that prevents an unqualified person from setting up practice and referring to themselves as a social worker. The present lack of regulatory oversight contrasts with other comparable overseas jurisdictions which have enacted various forms of social work registration.

While the Australian Association of Social Workers (AASW) is the professional body that sets the practice standards and educational requirements for social work, membership is voluntary. The inquiry heard only one-third of qualified social workers are currently members of this Association. This leaves the overwhelming bulk of social workers with little to no professionally regulated oversight. Moreover, it leaves the community with inadequate recourse in the event of serious misconduct or unethical behaviour by a social worker.

On 5 September 2018, the Social Workers Registration Bill 2018 was introduced into the Legislative Council to address growing concerns about the harm caused by ineffective or incompetent social workers who deal with the most vulnerable members of our community.

The Bill aims to make provision for the registration of social workers and establish a statutory social workers' registration board with powers to investigate complaints and enforce penalties for practitioners who breach competency and ethical standards.

On 29 November 2018, the Bill was referred to the Joint Committee for further examination.

As part of its inquiry, the Committee heard from a range of interested parties, including the AASW, social welfare agencies and education providers. The Committee took particular interest in hearing from the peak body representing social workers in New Zealand where government regulation of the profession already exists. The submissions significantly informed the recommendations in this report. In the absence of a national registration scheme, evidence to the inquiry strongly supported the mandatory registration of social workers at the state-level. Some concerns, however, were expressed about the Bill in its current form, including:

- insufficient detail about the purpose of the legislation;
- limited definition of ***social work, fit and proper*** and other key terms;
- emphasis on the protection of the title of social worker at the expense of including tasks performed and services provided by social workers – this omission also having the potential to exclude from registration the many social workers who are employed under different job titles;
- potential disadvantage for those *social workers* without formal qualifications but with long-standing employment in the public sector who may be excluded from the introduction of a registration scheme; and
- the constitution and functions of the Social Workers Registration Board.

Following deliberation of the issues raised and the evidence received, the Committee has recommended that the Bill be passed with the proposed amendments as set out in the report's recommendations. Among its twenty recommendations, the Committee calls for:

- the inclusion of new provisions to provide more complete definitions of a range of key terms;

- the inclusion of new provisions to enable the Social Workers Registration Board to define social work services and develop social work scope(s) of practice for registration to ensure all suitably qualified social workers, irrespective of their job titles, are registered and only perform services within those defined parameters;
- changes to the Bill's wording to ensure social workers have gained an appropriate degree endorsed by the Australian Association of Social Workers' accreditation process;
- an increase in the number of social workers on the seven-member Social Workers Registration Board from three to four to ensure that it comprises a majority of social workers;
- changes to the Board's establishment and composition; and
- the inclusion of a time-limited transitional provision, similar to that which exists in New Zealand, enabling the Social Workers Registration Board to develop an experience-based pathway for those *social workers* without formal qualifications – who have extensive practical experience in the public sector – to gain registration.

Social workers deal with increasingly complex health and social needs of individuals and families. The Committee considers that its recommendations will serve to enhance the professional standards of the social work profession and better protect the safety of the community.

While the Committee supports continued advocacy by the government for a national framework, it also recognises the registration of social workers is long overdue. No state or territory in Australia has a registration scheme for social workers. For this reason, the Committee is of the strong view that it is time for South Australia to take the lead in putting in place a state-based legislative framework for the registration of the social work profession. To expedite the process, the Committee has instructed the Office of Parliamentary Counsel to redraft the Bill in accordance with the recommendations contained in this report.¹

¹ See Appendix 4.

Recommendations

After considering the evidence and submissions placed before it, the Committee makes the following recommendations:

1. The Committee recommends that the Bill be amended to include a *purpose section* that sets out key principles and objectives making it clear that the intent of the legislation is to, among other things, protect the public by ensuring only suitably trained and qualified social workers are able to practise and are professionally accountable for the way in which they practise.
2. The Committee recommends that subclause 3(2)(a) of the Bill be amended to provide a more comprehensive definition of social work. The definition should reflect the global definition of social work (2014) jointly endorsed by the International Federation of Social Workers and the International Association of Schools of Social Work.
3. The Committee recommends that subclause 15(1) of the Bill which currently reads:

‘a person must not be engaged as a social worker unless the person is registered as a social worker under this Act.’

be amended to reflect the wording proposed by the Australian Association of Social Workers (AASW) as follows:

- ‘a person must not be engaged as a social worker unless the person is registered as a social worker under this Act to undertake social work services.’
4. The Committee recommends that the Bill be amended to enable the Social Workers Registration Board, in conjunction with the social work profession, to define social work services and develop social work scope(s) of practice for registration. In doing so, the Committee further recommends that the Board should:
 - a) ensure all suitably qualified social workers, irrespective of their job titles, be registered and only perform functions within the defined scope(s) of social work practice;
 - b) examine the AASW *Practice Standards* and *The Scope of Practice* series;
 - c) consider the mandatory social work registration scheme recently introduced in New Zealand;
 - d) be informed by that jurisdiction’s development of social work scope(s) of practice; and
 - e) regularly review the scope(s) of practice to ensure their relevance to the social work profession.
 5. The Committee recommends that subclause 16(a) of the Bill be amended to include the words ‘AASW accredited qualifications’ to ensure social workers have gained an appropriate degree endorsed by the AASW accreditation process.
 6. The Committee recommends that the Bill be amended to include a new provision which enables the Social Workers Registration Board to develop and apply an ‘experience-based pathway’ to recognise prior extensive work experience and demonstrated competence. This experience-based pathway should be developed by the Board, in conjunction with relevant stakeholders, to enable only those presently employed in the public sector as social workers but who do not hold social work qualifications to be included in the registration system. The Committee further recommends that the:

- a) Board be informed by Section 13 of the Social Workers Registration Act 2003 (New Zealand) which recognises practical and lived experience in lieu of a recognised qualification; and
 - b) experience-based pathway be subject to appropriate statutory time limits, and that any extension also be subject to a statutory time limit.
- 7. The Committee recommends that subclause 16(c) of the Bill be amended to expand and clarify the definition of *fit and proper*. In doing so, the Committee further recommends the Bill be amended to empower the Social Workers Registration Board to establish criteria to assess whether a person is fit and proper to practise social work.
- 8. The Committee recommends that clause 17 of the Bill be amended to ensure the Social Workers Registration Board follows procedural fairness when determining a social worker's fitness to practise in relation to impairment through medical illness or disability.
- 9. The Committee recommends that the Bill be amended to better reflect that social workers provide support to, and work with, a range of vulnerable groups including both children and adults by:
 - a) broadening the reference to 'working with children check' in subclause 16(b), for example, to include other relevant screening checks; and
 - b) requiring that a national police certificate be submitted as part of the application for registration.
- 10. The Committee recommends that subclause 5(1) of the Bill be amended to enable an open application process for the Social Workers Registration Board membership which does not require nominations to be made to the Minister by any specific stakeholder groups.
- 11. The Committee recommends that subclause 5(1) of the Bill be amended to expand the number of social workers on the Social Workers Registration Board from three to four, to ensure that:
 - a) the seven-member Board comprises a majority of social workers; and
 - b) Board membership reflects the demographic diversity of the community.
- 12. The Committee recommends that subclause 9(1) of the Bill be amended to enable the Board to develop or endorse an appropriate code of conduct and ethical guidelines.
- 13. The Committee recommends that the Bill be amended to enable the Board to develop a set of criteria to define what is meant by unprofessional conduct and improper conduct.
- 14. The Committee recommends that the Bill be amended to enable the Social Workers Registration Board to establish an external and independent panel to deal with complaints and disciplinary matters. The Social Workers Registration Board should have the power to refer to this external body for advice if it reasonably believes that a social worker has behaved in a way that constitutes professional misconduct.
- 15. The Committee is mindful that some matters brought before the Social Workers Registration Board in relation to disciplinary and professional conduct may have a public interest element. The Committee recommends that clause 33 of the Bill be amended to enable the Board to make a public notice on its website of any outcome of a disciplinary action where there are limitations of practice imposed on a social worker; and where this disclosure lies in the public interest.

16. The Committee recommends that the Bill be amended to include a provision similar to that which exists as part of the Australian Health Practitioner Regulation Agency (AHPRA) framework, to enable the Board to permit non-practising or retired social workers to hold the appropriate type of registration; and ensure a process is developed to enable these workers to re-enter the profession if appropriate.
17. The Committee appreciates the importance of ensuring the social work profession is supported to enable social workers to fully understand the new legislative framework. As such, the Committee recommends the state government start the rollout of the new registration scheme using a phased approach and, in conjunction with the Social Workers Registration Board, develop an education campaign to ensure social workers and the community are appropriately informed about the new registration scheme.
18. The Committee recommends that the legislation be reviewed within 18 months after its implementation to ensure it is meeting its stated objectives and that the Social Workers Registration Board table this review in parliament.
19. The Committee recommends that the state government, in conjunction and consultation with individual state and territory jurisdictions, continue to advocate the federal government to support a national framework for the registration of social workers.
20. Subject to the above amendments the Committee recommends that the Social Workers Registration Bill 2018 be passed.

Appointment and Terms of Reference

On 29 November 2018, the Social Workers Registration Bill 2018 – introduced to the Legislative Council on 5 September 2018, by the Hon Tammy Franks MLC – was withdrawn and referred to a joint committee for further examination.

The Social Workers Registration Bill

The aim of the Social Workers Registration Bill² is two-fold: to make provision for the registration of social workers and establish a social workers' registration board with powers to investigate complaints and enforce penalties for practitioners who breach competency and ethical standards.

Membership

Membership of the Committee:

The Hon. T. A. Franks, MLC (Chairperson)
The Hon. C. Bonaros, MLC
Ms. N. F. Cook, MP
The Hon. I. Pnevmatikos, MLC (*until 19 June 2019*)
The Hon. R. Sanderson, MP
The Hon. J. B. Teague, MP
The Hon. R. P. Wortley, MLC (*from 19 June 2019*)

Secretary:

Ms Leslie Guy

Research Officer:

Ms Sue Markotić

Context

Over the past two decades, numerous state-level inquiries have called for the registration of social workers.³ More recently, the coronial inquests into the deaths of Chloe Lee Valentine and Ebony Simone Napier recommended the formal registration of social workers in Australia.⁴ Among other things, these coronial inquests highlighted significant shortfalls in the management and oversight of children at risk. Against this background, the state Liberal Party, as part of its policy platform for the 2018 election, committed to registration of the profession.⁵

² <https://www.legislation.sa.gov.au/listAZBills.aspx?key=S>

³ The Layton Report of the Review of Child Protection in South Australia (March 2003); Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct (March 2008) (Hon. E. P. Mullighan, QC Commissioner); Final Report of the Select Committee on Statutory Child Protection and Care in South Australia, November 2017.

⁴ See recommendation 22.21 (Chloe Valentine inquest, 9 April, 2015); recommendation 14.3 (*Baby Ebony* inquest, 28 January, 2016).

⁵ Liberal Party, South Australia, A Strong Plan for Real Change: Registration of South Australian Social Workers, 2018.

Conduct of the Inquiry

In January 2019 the Committee advertised its inquiry in *The Advertiser* and *The Australian* inviting stakeholders to make written submissions or register their interest in presenting oral evidence to the Committee on the Bill. Details of the inquiry, including links to the Bill and the inquiry's terms of reference, were placed on the committee's website.

The Committee commenced hearing evidence on 30 January 2019. Nine written submissions were received from a range of stakeholders, including the Australian Association of Social Workers – the professional body representing social workers, education providers, the state government sector, social welfare agencies and individual social workers. The Committee also wrote to the federal government as well as all state and territory jurisdictions seeking an update on any progress towards the registration of the social work profession. Oral evidence was heard from 11 separate groups of witnesses, some of whom had also provided written submissions. On 10 June 2020, the committee held a teleconference with Ms Lucy Sandford-Reed, Chief Executive, Aotearoa New Zealand Association for Social Workers.

Lists of submissions received and witnesses who appeared before the Committee are provided in the appendices.

Structure of the Report

It should be noted that not every aspect of the Bill was raised in submissions. Much of the evidence expressed general support for registration rather than drawing attention to specific sections of the Bill. As such, this report reflects only those aspects or parts of the Bill that were predominately emphasised in the oral evidence and written material received. Committee comments are interspersed throughout the report, where appropriate.

The Committee took particular interest in the New Zealand legislation given its recent move towards mandatory social worker registration. Where relevant, this report reflects the approach taken by that jurisdiction.

Terminology

The Committee notes that some submissions have used the term *grandfathering*.⁶ Others have used the gender-neutral term *grandparenting* in an attempt to convey the same legal meaning.⁷ The Committee notes that *grandfathering* is a colloquial term sometimes used in parliament and some legal circles to legally exempt those who were already engaged in a particular activity at the time a new law was passed.⁸ The use of this term during the inquiry was made in the context of discussing whether social workers without qualifications ought to be registered under new legislation and be able to retain their job title. That noted, *grandfathering* is never used in any official legal sense. Moreover, given its historical origins, it is no longer an appropriate term to be used.⁹ As such, this report uses the legal term *transitional provision* but where relevant applies the language used in submissions.

⁶ Smith, Hansard, p5. The term is also commonly known as a *grandfather clause* or *grandfather provision*.

⁷ Public Service Association of South Australia, (PSA), written submission, p5; Lawrie, Hansard, p58; Ward, Hansard, p84.

⁸ Macquarie Dictionary, (eighth edition, two volumes), Macquarie Dictionary Publishers, 2020, p673.

⁹ The term has racist origins. See, e.g., Macquarie Dictionary, (eighth edition, two volumes), Macquarie Dictionary Publishers, 2020, p673; Encyclopedia Britannica, Grandfather Clause – United States History, at <https://www.britannica.com/topic/grandfather-clause>

Acknowledgements

The Committee thanks those individuals and organisations who made written submissions and presented oral evidence and whose efforts greatly benefitted the Committee's understanding of the key issues relating to the Bill. In particular, the Committee acknowledges the specific assistance of the following members of the Australian Association of Social Workers (AASW) and its South Australian branch:

- Cindy Smith – CEO, AASW
- Debra Parnell – Manager, Social Policy and Advocacy
- Miriam Hobson – State Manager, AASW (SA)
- Alene McGowan – Executive Assistant AASW
- Angela Yin – Communications Lead, AASW
- Dr Mary Hood – President, AASW (SA)

The Committee also expresses its gratitude to Ms Lucy Sandford-Reed, Chief Executive of Aotearoa New Zealand Association of Social Workers, whose evidence regarding the New Zealand mandatory registration scheme further informed the Committee's inquiry and greatly assisted in the formulation of its recommendations.

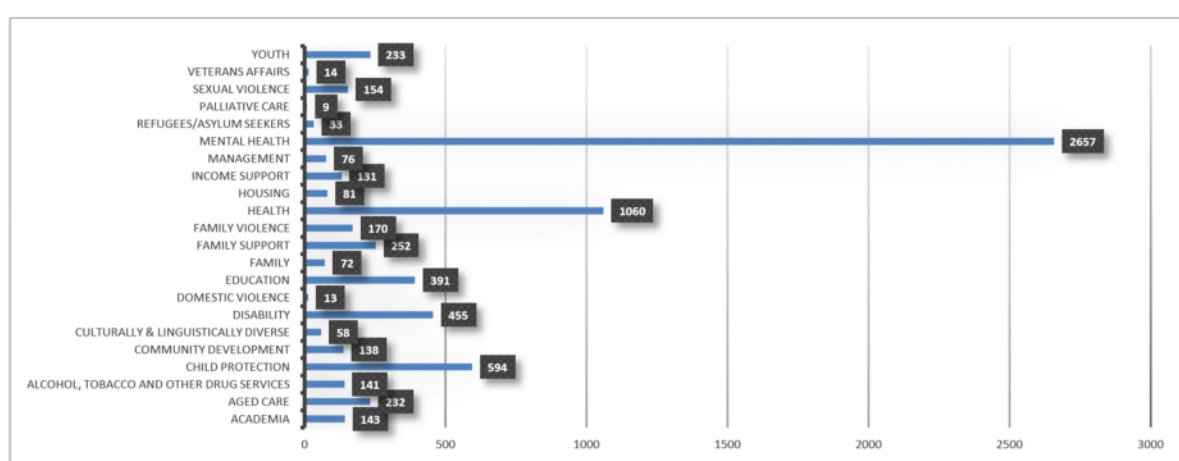
Current Status of the Social Work Profession

Despite having no registration requirements, social workers represent 'one of the largest professional working groups in Australia'.¹⁰

Data provided by the Australian Association of Social Workers (AASW) suggests that there are around 33,000 social workers nationally including 4,200 in South Australia.¹¹

The Committee was told that social workers practise in a range of health and welfare settings. In its written submission the AASW provided the Committee with a snapshot of the primary sectors in which social workers practice. Table (1) highlights the broad scope of social work practice with the three main areas being in mental health, health and child protection.¹²

TABLE 1: AASW Members' Primary Areas of Practice (Nationally)



Social work is broad and can include crisis intervention, counselling, group work, advocacy, education, policy and research.¹³ Social workers are employed in a range of government, non-government and community settings including hospitals, schools, prisons, child protection agencies, housing, disability and aged care services.

Around 60% of social workers are employed in non-government or community-based sectors.¹⁴ The inquiry heard an increasing number of social workers are self-employed and working as private practitioners.¹⁵

Within the state public sector, social workers are employed across a number of government agencies as indicated in the Table 2.¹⁶

¹⁰ SA Government, written submission, p2.

¹¹ AASW, written submission (Final), p1. The Committee notes that the figures provided by the AASW are from 2018 and have changed since that time. For updated figures, refer to Australian Government, JobOutlook at <https://joboutlook.gov.au/occupation?code=2725>

¹² AASW, written submission, (Final), pp2-3.

¹³ Smith, Hansard, p2.

¹⁴ Approximate percentage calculated from total public sector number of 1774 deducted from the total number of social workers in SA (4200).

¹⁵ Phillips, Hansard, p8.

¹⁶ Figures provided are approximate. Department for Child Protection, Questions Without Notice – Social Worker Numbers by Department, response dated 2 September 2019, p1.

TABLE 2: Social Workers in State Government as at January 2019

Agency	Number
Department for Health and Wellbeing	827
Department for Child Protection	622
Department for Education	159
Department of Human Services	100
Attorney-General's Department	39
Department for Correctional Services	27
SA Police	3

Australian Association of Social Workers

The Australian Association of Social Workers (AASW) – the professional body representing social workers throughout Australia – has long advocated for the formal registration of the social work profession, maintaining that the statutory registration of social workers is the ‘preferred pathway for achieving adequate professional standards for the social work profession’.¹⁷

Established in 1946, the AASW sets the benchmark for professional education and practice in social work. Since the 1960s, it has been responsible for the accreditation of Australian social work university programs, working now with 31 schools of social work to set the principles and standards for social work education. The AASW regulates international academic social work qualifications for migration and/or employment purposes and is the accrediting body on behalf of Medicare and the Australian government for social workers to provide mental health services under the Medicare Benefits Schedule.¹⁸

Limited Regulatory Oversight of Social Workers

While social workers deal with some of the community’s most challenging and complex social problems, many practise with little to no regulatory oversight.¹⁹ In Australia, there is no regulation in place that prevents an unqualified person from calling themselves a social worker. The present lack of regulatory oversight contrasts with other comparable, overseas jurisdictions which have enacted various forms of social work registration.²⁰ Indeed, the Committee was told that Australia is an ‘anomaly’ in this respect given that every other English-speaking country has introduced social worker registration.²¹

At present, the AASW is the main body that responds to complaints about social workers. However, membership of the AASW is voluntary. In the event of a complaint, only those who have AASW membership can be investigated by the AASW through its ‘ethics complaints process’.²² Data provided

¹⁷ Australian Association of Social Workers (AASW), written submission, (Final), p1.

¹⁸ Smith, Hansard, p2.

¹⁹ In 2013, a Code of Conduct for Unregistered Health Practitioners came into force for practitioners in South Australia.

²⁰ For e.g., England, France, Japan, New Zealand, Scotland. See, McCurdy, S; Sreekumar, S; Mendes, P. ‘Is there a case for the registration of social workers in Australia?’ (2018) *International Social Work* pp 1-12, p6. It should be noted that in some overseas jurisdictions, such as Canada and the United States, province or state-based registration models exist (refer to Phillips, Hansard, p8).

²¹ Moulding, Hansard p45; see also AASW, Response to Committee Questions, 2019, p7 – countries include: USA, Canada, New Zealand and England.

²² AASW, written submission, (Final), p7.

shows that for the financial year 2018-19, around one-quarter of the complaints received by the AASW were not progressed because the social workers against whom the complaints were made did not have AASW membership.²³ Even more worryingly, the Committee understands that there have been instances where social workers have withdrawn their AASW membership at the point a complaint has been made to avoid any further scrutiny.²⁴

If a complaint or disciplinary matter is upheld, penalties are severely limited and may simply result in a social worker being excluded from eligibility for membership of the AASW.²⁵ The inquiry heard that even if a social worker is precluded from membership, the AASW has no power to stop them from continuing to identify as a social worker.²⁶

Of the nearly 33,000 social workers in Australia, only one-third, around 11,000 are members of the AASW.²⁷ Of the 4,200 estimated social workers in South Australia, only 1,100 are AASW members.²⁸ This means the bulk of social workers in Australia, around two-thirds, are working outside of the already limited AASW regulatory framework. Although there may be some further oversight in certain situations by the Health and Community Services Complaints Commissioner or the Ombudsman,²⁹ these complaints' bodies have only recommendatory powers.

The Committee was told that 'just having a complaints-based service is not good enough for social work',³⁰ as it does not enforce competent or safe practice. Moreover, those who access social work services are often 'extremely vulnerable' and do not necessarily know that they have the right to complain about poor service.³¹

Some level of accountability may occur by a social worker's employing agency. However, the inquiry heard that 'increasing numbers of social workers are self-employed; working individually in sole practitioner situations' leaving them operating in a largely unregulated environment.³²

The Committee heard two case examples which highlighted the inadequacy of the current regulatory system.³³

Case Study 1

A social worker employed in a hospital had contact with an underage young person who presented to the emergency department. The young person repeatedly presented to the emergency department to see the social worker. It became apparent to management that an inappropriate relationship had developed. The matter was reported to both the HR section of the hospital as well as the police. The social worker subsequently resigned. As the young person was reluctant to provide any detail about the matter, no further police action was taken.

²³ In 2018-19, the AASW received 103 complaints of which 26 could not progress as the respondent was not an AASW member. For the preceding year, 2017-18, the AASW received 166 complaints of which 44 could not proceed for the same reason, refer to AASW, Response to Committee Questions, 2019, pp5-6.

²⁴ See, AASW, written submission, (Final), p7; Smith, Hansard, p11.

²⁵ Smith, Hansard, p3.

²⁶ Smith, Hansard, p3.

²⁷ AASW, written submission, (Final), pp1-2.

²⁸ AASW, written submission, (Final), pp1-2.

²⁹ AASW, written submission, (Final), p7.

³⁰ Phillips, Hansard, p7.

³¹ Phillips, Hansard, p7.

³² Phillips, Hansard, p8.

³³ Case studies modified from evidence presented, see Turnbull, Hansard, pp82-83.

Case Study 2

A social worker gained employment using falsified qualifications. The name of the person eventually became known through informal social work networks and was communicated to colleagues working within the sector. While steps were taken to avoid employing this person, they were still able to get periodic employment, particularly on a casual basis.

In both the above examples, the lack of registration severely restricted the proper oversight of the individuals concerned. No penalties could be applied for the misconduct and there was nothing in place to prevent those individuals from continuing to work as social workers.

General Support for Registration

Submissions to the inquiry expressed broad support for the Bill. While social worker registration was not necessarily seen as a ‘panacea’ for the complex challenges relating to the profession, it was generally viewed as an important step towards improving standards of practice and guiding the ‘next generation of professional social workers’.³⁴

Most submissions agreed that the registration of social workers would, among other things:

- improve public safety
- strengthen confidence in the social work profession
- improve accountability
- ensure appropriate qualifications and practice standards are upheld
- define safe and competent scopes of practice
- ensure continuing professional social work development and education; and
- establish a profession-specific complaints and disciplinary process with a public record of registered and deregistered persons.³⁵

The importance of the continuing education of social workers was repeatedly emphasised and is considered to be a key benefit of social worker registration.³⁶ At present, in the absence of mandatory registration, there is no requirement for social workers to engage in professional development, rather any participation is voluntary.³⁷ Overall, submissions were pleased that the Bill enables the Social Workers Registration Board to require social workers to engage in education and training as part of the registration process.³⁸

The Committee notes that ongoing professional development and education is an essential part of working in a profession. It continues throughout a person’s professional career and, among other things, ensures that knowledge and skills remain relevant and up-to-date and is vital for community confidence in the profession.

³⁴ Moulding, Hansard, p46.

³⁵ See, e.g., Phillips, Hansard, p7; University of South Australia, written submission; PSA written submission.

³⁶ See, e.g., PSA, written submission, p3; Smith, Hansard p12.

³⁷ Moulding, Hansard, p46.

³⁸ See clause 19 of the Bill.

Despite the numerous benefits of registration noted in submissions, some concern was expressed about whether registration would be ‘another regulatory impost’ without significant community benefit.³⁹ The SA government submission,⁴⁰ while supporting registration, flagged concern about the potential cost implications on the state budget of registering the profession, including such things as the cost of establishing the Board, the cost of administering the scheme and remuneration for its members.⁴¹

National Registration

Almost all submissions expressed the view that the registration of the social work profession would be best served by a single, national regulatory system as part of the National Registration and Accreditation Scheme with oversight from the Australian Health Practitioner Regulation Agency (AHPRA).

One of the ‘weaknesses’ identified with only having state-based legislation is that a deregistered social worker from South Australia can simply move interstate and continue to practise as a ‘social worker’.⁴² In other words, they do not need to redefine themselves in any way as there is nothing to preclude them from continuing to use the title of *social worker*.

It is considered that a national registration framework would ensure nationally consistent standards and qualifications are applied and would prevent social workers ‘moving between jurisdictions in order to evade disciplinary consequences and/or to continue practising’.⁴³ The Committee notes that social workers often work closely alongside the many health professionals that have mandatory national registration including: psychologists, nurses, teachers, and medical practitioners. However, the Committee was told that past efforts to have social worker registration implemented at this national level were unsuccessful as 15 health groups were already under the one regulatory national scheme (AHPRA) and the Commonwealth ‘had no appetite to include another one’.⁴⁴

As part of its inquiry, the Committee wrote to the federal government and all interstate jurisdictions seeking an update on any progress towards the registration of the social work profession. In its written response, the federal government advised that Health Ministers, through the Council of Australian Governments (COAG), had previously agreed that public safety of self-regulated workers, such as social workers, would be greatly improved by the introduction of a National Code of Conduct by setting minimum standards of conduct and practice. The Committee notes that such a code for certain unregistered health providers who are not legally required to gain registration with the Australian Health Practitioner Regulation Agency (AHPRA) already exists in South Australia through the Health and Community Services Complaints Commissioner.⁴⁵ While some states have implemented a similar code

³⁹ Womersley, Hansard, p13.

⁴⁰ The SA Government submission was developed in consultation with the following agencies: Attorney-General’s Department, Department for Child Protection, Department for Correctional Services, Department for Education, Department for Health and Wellbeing, Department of Human Services, Office of the Commissioner for Public Sector Employment and South Australia Police.

⁴¹ SA Government, written submission, p4.

⁴² Hallahan, written submission, p8.

⁴³ Womersley, Hansard, p14.

⁴⁴ Phillips, Hansard, p7.

⁴⁵ A new code of conduct for unregistered health care workers was introduced in SA in 2019. Health care workers who fall under this code include, among others, massage therapists, counsellors, social workers, and homeopaths. See Code of Conduct, Health and Community Services Complaints Commissioner at <https://www.hscscc.sa.gov.au/code-of-conduct-for-unregistered-health-practitioners/>

of conduct for certain unregistered health providers, no jurisdiction has made any move to mandate the registration of social workers at a state-based level.⁴⁶

The Committee also considered the New Zealand social worker registration scheme. It notes that the New Zealand registration scheme and its legislation intentionally sits outside of the health sector registration framework in recognition that social work intersects with a number of other disciplines including, among others, the correctional services system.⁴⁷

While the AASW prefers a national approach, it supports a state-based approach as an alternative option for providing improved community safety. According to the AASW, the proposed social worker registration legislation would work alongside other state-based complaints resolution systems,⁴⁸ by addressing the ‘limitations’ of each regulatory framework.⁴⁹ The AASW states:

We envisage that a statutory relationship between the Social Workers Registration Board and HCSCC [Health and Community Services Complaints Commissioner] could be established, similar to that currently in place between HCSCC and AHPRA.⁵⁰

In the absence of federal determination towards the registration of social workers, a state-level registration scheme was generally supported and seen as an important first step.

COMMITTEE COMMENT

The Committee finds it unacceptable that anybody can use the title *social worker* without any skills, experience or qualifications. The overwhelming majority of evidence presented to the Inquiry supports the mandatory registration of social workers. The Committee agrees that such a scheme should be introduced to, among other things, better regulate the profession and provide protection to the community. While the Committee would prefer to see the registration of social workers operating at a national level, it nevertheless supports South Australia being the first state to introduce a state-based registration scheme for social workers.

⁴⁶ See written correspondence received from the federal government and all state and territory jurisdictions. <https://www.parliament.sa.gov.au/en/Committees/Committees-Detail>

⁴⁷ Sandford-Reed, Hansard, p112.

⁴⁸ For, e.g., the Health and Community Services Complaints Commissioner (SA).

⁴⁹ ASSW, written submission, (Final), p10.

⁵⁰ ASSW, written submission, (Final), p10.

Overview of Key Issues: Social Workers Registration Bill

While there was overall support for the registration of social workers in South Australia, certain issues were raised during the inquiry that concern one or more elements of the Bill. Not all aspects of the Bill were discussed in the submissions to the inquiry. As such, this section mainly focuses on those issues repeatedly raised during the Committee's examination of the Bill.

In broad terms, the main concerns relate to:

- the challenges associated with defining **social worker** and the scope of practice of social work;
- Board selection, functions, composition and establishment;
- social workers who do not hold the requisite qualifications but have long-standing public sector employment as social workers and may be disadvantaged by the introduction of a new regulatory framework; and
- definitional issues relating to misconduct and fitness to practise.

These specific issues and others raised during the inquiry are addressed in turn below.

Objectives of the Bill

The current broad aims of the Bill are to: 'make provision for the registration of social workers; to establish the Social Workers Registration Board; and for other purposes.'⁵¹ Two submissions suggested that the Bill should have greater clarity about its objectives. In its submission, the South Australian Council of Social Services argued that the proposed legislation needed to ensure its objectives are clearly expressed to avoid any uncertainty about its intended purpose.⁵² In a similar vein, in its submission Flinders University suggested that the Bill ought to be prefaced with a clear 'set of principles and objectives' that make clear its intended purpose to protect the public.⁵³

Defining Social Work

Subclauses 3(2)(a) and (b) of the Bill provide the following definitions of **social work** and **social work services**:

(2) For the purposes of this Act—

- (a) **social work** is a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people; and
- (b) **social work services** includes the provision of services relating to social work, but does not include services, or services of a kind, excluded from the ambit of this definition by the regulations.

⁵¹ Social Workers Registration Bill 2018, (long title).

⁵² Womersley, Hansard, p16.

⁵³ Hallahan, Hansard, pp34-35.

A number of submissions expressed concern about the limited definition of **social work** in the proposed Bill.⁵⁴ Some evidence suggested that the definition of social work in subclause 3(2)(a) is too narrow and should be expanded to emphasise that ‘social workers work from an identified theoretical base’.⁵⁵

According to the Public Service Association of South Australia, the Bill needs to be ‘more comprehensive’ in its definition of social work, emphasising the complex nature of social work.⁵⁶

The difficulty associated with defining **social work** was considered particularly vexing given its ‘non-static’ nature.⁵⁷ In his written submission, Mr Ron Layton, a social worker with over 40 years’ experience, highlighted the difficulties in having a workable definition of social work for the purposes of legislation:

Social work is not like teaching or medicine, where the parameters can be easily established. As such the variations need to be covered.⁵⁸

Associate Professor Lorna Hallahan, Head of Social Work, Flinders University, offered the following context:

When we look back over 100 years of social work emerging as a profession with university qualifications attached to it, we can see a lot of growth in our profession in that time. That is because social work is always at the forefront of dealing with very difficult and challenging social issues. These issues both persist over time—the issues of child abuse, domestic violence, poverty, inequality, discrimination, and oppression of vulnerable people persist—but they are forever presenting fresh challenges and so the profession has always had to be able to read the climate in which it must operate, and to be able to move in a way that is responsive to those challenges.⁵⁹

In its written submission the AASW emphasised the highly skilled nature of social work:

Social work practice is characterised by complex multifaceted work with very vulnerable groups. Social workers are faced with some of society’s most challenging issues. They are required to make judgment calls in challenging circumstances, with immense consequences to the wellbeing of the people they work with, whether it be child protection, family violence or the aged care sectors. It is demanding and morally complex work that requires expert knowledge and a multitude of skills. Given the complexity of issues, vulnerable individuals and groups need the support of knowledgeable, well-trained, and well-supervised professionals, which is why social work is a registered profession in many jurisdictions across the world.⁶⁰

Global Definition of Social Work

Social workers apply a range of theoretical frameworks in their practice with individuals, couples, families or groups. In its submission, the University of South Australia advised that the definition of

⁵⁴ PSA, written submission, p2; Child and Family Focus SA, written submission, p4.

⁵⁵ University of South Australia, written submission, p5, see also PSA, written submission, p2.

⁵⁶ PSA, written submission, p2.

⁵⁷ Hallahan, Hansard, p34.

⁵⁸ Layton, written submission, p3.

⁵⁹ Hallahan, Hansard, p34.

⁶⁰ AASW, written submission, (Final), p6.

social work should include or refer to the global definition of *social work* that was jointly endorsed by the International Federation of Social Workers and the International Association of Schools of Social Work. Likewise, the AASW also supported the inclusion of the global definition of social work and recommended that it be included in the proposed legislation.⁶¹ The most recently approved definition of 2014, endorsed by the International Federation of Social Workers and International Association of Schools of Social Work, is as follows:

Social work is a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people. Principles of social justice, human rights, collective responsibility and respect for diversities are central to social work. Underpinned by theories of social work, social sciences, humanities and Indigenous knowledges, social work engages people and structures to address life challenges and enhance wellbeing.⁶²

COMMITTEE COMMENT

The Committee understands the broad and multifaceted nature of social work and, therefore, agrees that the definition of social work in the Bill should be broadened to reflect the complexity of social work practice. The Committee considers that the global definition of social work 2014, jointly endorsed by the International Federation of Social Workers and the International Association of Schools of Social Work should inform the Bill to better capture the nature of the social work profession.

Protection of Title

At present, any individual can use the title of ***social worker*** without having the requisite tertiary qualifications.⁶³

A recurrent theme in support of registration has been the protection of the title of ***social worker*** through restricting the use to suitably qualified workers. Title protection will ensure that any person who refers to themselves as a social worker or is employed as a social worker must be registered. Moreover, title protection will provide the community with greater confidence that all those working in the role have the appropriate training, skills and competence and are subject to continuing professional development and disciplinary oversight. In her written submission, Associate Professor Lorna Hallahan, emphasised the importance of the proposed Bill to protect the title of ***social worker*** and thus offer greater protections to the community.⁶⁴

Notwithstanding, the Committee repeatedly heard there are situations in which a person may be ‘qualified’ as a social worker – with their role specifically requiring the expertise of a social worker – but their job title may be ‘youth worker’ or ‘domestic violence worker’.⁶⁵ Indeed, it has been suggested that the actual use of the title of ***social worker*** is ‘in the minority’.⁶⁶ In its submission, Child and Family

⁶¹ AASW, written submission, (Final), p4.

⁶² AASW, written submission, (Final), p5.

⁶³ University of South Australia, written submission, p2.

⁶⁴ Hallahan, written submission, p5.

⁶⁵ Earl, Hansard, p14.

⁶⁶ Layton, written submission, p1.

Focus SA, an organisation representing over 55 non-government organisations, highlighted the complex and often fluid nature of role titles in which social workers are employed:

It has been acknowledged that many practitioners in the child and family wellbeing sector are trained and qualified as social workers but hold differing role titles. It is common for social workers to practice as ‘case managers’, ‘senior practitioners’, ‘youth workers’, and ‘support workers’. The Bill will need to recognize that some of these roles ‘require’ a social work qualification, and thereby, registration as a social worker, whereas others would not.⁶⁷

COMMITTEE COMMENT

The Committee accepts that most workers who are social work qualified, utilising the skills and knowledge expected of that profession fall under a broad range of titles. Submissions expressed general concern that under the proposed legislation such workers would be potentially excluded from the registration scheme. The Committee accepts that more than just title protection is necessary to ensure that all qualified social workers, irrespective of job title, are registered.

Defining the Scope of Social Work

As noted, while there was general agreement in submissions that the protection of title is an important first step, a number also noted that protecting the title of **social worker** significantly limits the regulatory purpose of the proposed legislation if a ‘scope of practice’ is not also developed.

The AASW was clear that the proposed legislation needs to go further than title protection by also defining the ‘scope’ of social work.⁶⁸ The Association expressed concern that the current wording⁶⁹ contained in the Bill suggests only social workers employed using the **social worker** title need to be registered without regard to the actual scope of their work.⁷⁰ Concerns were also expressed that by protecting the title without also defining the scope of social work practice, employers would be able to circumvent the registration scheme by simply changing an employee’s job title to avoid having them register as a social worker.⁷¹

The AASW notes that New Zealand faced similar difficulties in drafting its legislation for the registration of social workers.⁷² According to the AASW, the New Zealand social worker registration legislation, discussed below, initially resulted in only social workers who are in roles titled as **social worker** being required to register assuming they held the requisite qualifications.⁷³ The AASW further notes that the initial focus on only the title of social worker in the New Zealand legislation was remedied by incorporating an amendment enabling the Board to develop scopes of social work practice.⁷⁴ In broad terms, a profession’s scope of practice refers to the full range of roles, responsibilities, functions and tasks that those working within a particular profession are allowed to perform taking into account their qualifications and competence.

⁶⁷ Child and Family Focus SA, written submission, p4.

⁶⁸ See, e.g., AASW, written submission, (Final), p12.

⁶⁹ See especially Part 3, subclause 15(1).

⁷⁰ See, e.g., AASW, written submission, (Final), p12.

⁷¹ See, e.g., Earl, Hansard, p14.

⁷² AASW, written submission, (Final), p6.

⁷³ AASW, written submission, (Final), p6.

⁷⁴ AASW, written submission, (Final), p12.

This amendment in the New Zealand legislation resulted in the incorporation of both job description and role responsibilities.⁷⁵ The Committee notes that New Zealand has recently commenced consultation to better define the scope of social work services.⁷⁶ The AASW believes the New Zealand model provides a suitable model for South Australia to follow.⁷⁷

In an effort to provide greater clarity in relation to who should be registered, the AASW proposes changing the wording in clause 15(1) of the Bill from:

15—Requirement to be registered

- (1) A person must not be engaged as a social worker unless the person is registered as a social worker under this Act.

to:

A person must not be engaged as a social worker unless the person is registered as a social worker under this Act to undertake social work services.⁷⁸

This would entail that anyone with an AASW accredited social work qualification undertaking functions within the scope of social work practice would have to be registered. The AASW further commented that defining what is meant by social work services is too broad and complex to include in the Act and is better suited to inclusion in any subordinate legislation. The Association notes that it has already provided some groundwork towards this end through the development of its *Practice Standards* and *The Scope of Practice* series which outlines scopes of practice for different areas of social work practice, for example, child protection, aged care and mental health.⁷⁹

The Committee notes that such a change to the wording may help clarify the question as to whether registration is required for qualified social workers who may be engaged in non-social work roles such as those working in executive or administrative positions. In their evidence to the inquiry, both Mr Peter Sandeman, Chief Executive Officer, and Ms Nancy Penna, General Manager, Community Services (Anglicare) highlighted their extensive background in social work. While previously employed as ‘social workers’, neither now hold that title due to their advancement into leadership roles. However, both still regard themselves as social workers within their leadership roles and considered that any registration scheme should ensure social workers who move into leadership roles are still able to maintain registration.⁸⁰

In a similar vein, the SA government submission acknowledged the complex working arrangements and titles of many social workers in areas such as administration, policy and academia. Its submission suggests that it may be useful for the proposed legislation to include particular streams of registration such as practising and non-practising.⁸¹ The AASW also supported a separate stream for non-practising social workers. The Association considers that the AHPRA legislation regulating non-practising

⁷⁵ AASW, written submission, (Final), p6. See also *Social Workers Registration Act 2003* (New Zealand) s5A; and amending legislation *Social Workers Registration Legislation Act 2019* (NZ).

⁷⁶ See Social Workers Registration Board (NZ), Scope of Practice at <https://swrb.govt.nz/social-workers/practising/scope-of-practice/>

⁷⁷ AASW, written submission, (Final), pp12-13.

⁷⁸ AASW, written submission, (Final), p6.

⁷⁹ AASW, Response to Committee Questions, 2019, p9.

⁸⁰ Sandeman, Hansard, p118.

⁸¹ SA Government, written submission, pp3-4.

psychologists should inform the proposed legislation.⁸² Among other things, this legislation allows a non-practising psychologist to retain registration and ‘continue to use the protected title ‘psychologist’ while taking a break from practice.’⁸³

New Zealand Experience

In 2003, New Zealand introduced legislation to enable the voluntary registration of social workers. However, in 2019 – after a number of reviews and advocacy recommending a mandated system⁸⁴ – changes to the legislation have made the registration of all social workers in New Zealand mandatory.

As part of its inquiry, the Committee invited Ms Lucy Sandford-Reed, Chief Executive, Aotearoa New Zealand Association of Social Workers to provide background to the New Zealand legislation. Ms Sandford-Reed told the Committee that one of the main problems encountered in the original proposed legislation to mandate social workers in New Zealand was defining **social work**. The proposed New Zealand legislation initially only required workers whose job title or job description featured ‘social worker’ and/or ‘social work’ to register.⁸⁵ According to Ms Sandford-Reed, this excluded many workers who did not have the title of social worker but whose responsibilities required the expertise and/or qualifications of a social worker.⁸⁶ As a result, further amendments to the proposed legislation were made to better define the scope of social work practice. Ms Sandford-Reed told the Committee the intention is to complete the scope of practice, in consultation with a range of stakeholders, by December 2020 in time for mandatory registration of all social workers on 27 February 2021.⁸⁷ The Committee was told a ‘general scope’ of practice will be developed by the New Zealand Social Workers Registration Board to provide guidance on what constitutes practising social work.

It will be a high-level scope that will cover the fact that it is a qualified profession. It will [outline] at a very high level the purpose of social work, the activities and breadth of role and the methods of social work.⁸⁸

Even with a defined scope of practice being developed, Ms Sandford-Reed acknowledged that potential difficulties remain and some workers or employers may seek to find ways to avoid the registration scheme.⁸⁹ However, if a worker has a social work qualification and is working within the social services sector or similar then the expectation is that they will need to be registered, irrespective of their job title.⁹⁰

⁸² AASW, written submission, (Final), pp14-15.

⁸³ AASW, Response to Committee Questions, 2019, p14.

⁸⁴ Sandford-Reed, Hansard, p106.

⁸⁵ Sandford-Reed, Hansard, p106.

⁸⁶ Sandford-Reed, Hansard, p106.

⁸⁷ Sandford-Reed, Hansard, p107.

⁸⁸ Sandford-Reed, Hansard, p107.

⁸⁹ For example, employers may avoid using the title ‘social worker’.

⁹⁰ Sandford-Reed, Hansard, p108.

COMMITTEE COMMENT

Protecting the title *social worker* for registered social workers is important and will ensure only those who meet set criteria can use that title. However, the Committee agrees with the evidence presented that title protection in the registration scheme does not go far enough as many social workers are employed under different job titles.

The Committee strongly supports amendments to the Bill which will enable the Social Workers Registration Board to develop scopes of practice for social work. This will ensure that suitably qualified social workers, irrespective of job title, and working within the defined scopes of practice must be registered. Defining scopes of practice will also prevent social workers or employers of social workers circumventing the registration system by using alternative titles for employment.

Tertiary Qualifications for Registration

To qualify as a professional social worker in Australia, an AASW-accredited university degree is required. An individual may choose from a Bachelor of Social Work, a Bachelor of Social Work with Honours or a social work-qualifying master's degree.⁹¹ Irrespective of which degree is undertaken, substantial field placement requirements need to be completed before a social worker is entitled to practise. In South Australia, two universities offer social work programs: Flinders University and the University of South Australia.

In her evidence, Associate Professor Hallahan emphasised the importance of ensuring that registration is restricted to only those individuals who hold the requisite social work qualification, thereby strengthening the link between tertiary qualifications and registration.

Anybody who does not hold an accredited degree does not get registered...[For] the purposes of registration, the board should only be registering those people who hold an accredited social work degree, not [necessarily] people who are [simply] appointed to positions called 'social worker'.⁹²

The AASW agrees that only those who hold recognised social work qualifications should be included in the registration scheme. It does not support the inclusion of non-qualified social workers in the registration scheme.⁹³ This point was emphatically made by the AASW during its appearance before the inquiry:

[Just] to clarify, we are talking about qualified social workers who have been through an accredited university course. That's the group that we want to register. That's the group that we want to regulate. There will be other people who are working in community group work, youth work and all kinds of fields who might come into our consideration down the track if they want to become social workers, but right here, right now today, we are talking about just those people in South Australia who ... are qualified by having passed an accredited university course as a social worker.⁹⁴

⁹¹ Smith, Hansard, p2.

⁹² Hallahan, Hansard, p37.

⁹³ AASW, written submission (Final submission), p4.

⁹⁴ Phillips, Hansard, p98.

While agreeing that registration needs to be linked with qualifications, the AASW expressed some concern with the current wording of the Bill. In particular, the AASW pointed out that to be eligible for registration, the Bill – in its current form – requires a person to hold a suitable degree as ‘prescribed by regulation’ or ‘determined by the Board to be appropriate for registration’.⁹⁵ According to the AASW this places the determination of what qualifications are suitable solely with the Board and would ‘create major inconsistencies with the current accreditation and regulatory frameworks’ developed by the AASW in conjunction with the Australian Council of Heads of Schools of Social Work.⁹⁶

A number of submissions supported the AASW accreditation process for the recognition of social work qualifications.⁹⁷ Some have specifically sought an amendment to clause 16 of the Bill to ensure social workers have gained the appropriate degree endorsed by the AASW accreditation process.⁹⁸ The AASW itself seeks to have the words ‘AASW accredited qualifications’ inserted into Part 3, subclause 16(a) of the Bill. The AASW argued that its proposed change to the wording of the current Bill would ‘maintain a federally consistent regulatory framework’⁹⁹ and is in keeping with its long-standing key role (in place for over 50 years) as the regulatory body for professional social work in Australia, which among other things, sets the benchmark for professional education and practice in social work.¹⁰⁰

Qualifications no longer Awarded

Another concern raised related to those workers who may hold a qualification that is no longer awarded but who continue to work in the field of social work.¹⁰¹ The AASW itself acknowledges that amongst its membership there are individuals who hold qualifications obtained prior to 1974, such as the Associate Diploma of Social Work, which required ‘less than four years of tertiary degree-level study’.¹⁰² It is anticipated that over time, however, there would be a natural attrition of those social workers who fall within this category.¹⁰³

Social Workers with overseas qualifications

In its current form, the Bill allows the Board to determine whether an overseas qualification meets eligibility criteria.¹⁰⁴ At present, an overseas-educated social worker needs to apply to the AASW for a qualification assessment for employment purposes:

For individuals that have completed social work studies overseas, they need to apply for an AASW assessment of these qualifications to determine if they are eligible for AASW membership (for employment purposes in Australia).¹⁰⁵

If an amendment is made to stipulate ‘AASW accredited’ qualifications in the proposed legislation then the AASW will continue to determine eligibility for this cohort of workers, consistent with current practice.

⁹⁵ Subclauses 16(a)(i) and (ii).

⁹⁶ AASW, written submission, (Final), p12.

⁹⁷ See, e.g., Turnbull, Hansard, p86; University of South Australia, written submission, pp1, 5.

⁹⁸ See, e.g., University of South Australia, written submission, p5.

⁹⁹ AASW, written submission, (Final), p4.

¹⁰⁰ AASW, written submission, (Final), pp4, 15.

¹⁰¹ Layton, written submission, p2.

¹⁰² AASW, written submission, (Final), p17.

¹⁰³ Hallahan, Hansard, p43.

¹⁰⁴ Subclause 16(a)(i)(ii).

¹⁰⁵ AASW, written submission, (Final), p17.

COMMITTEE COMMENT

The Committee acknowledges that the AASW is the main accrediting body for social work education and qualification standards in Australia. It has had this role for over 50 years. The Committee therefore supports changes to the Bill that ensure only those qualifications accredited by the AASW be eligible for registration. The Committee considers that by allowing only 'AASW accredited' qualifications eligible for registration, those individuals holding qualifications no longer awarded or those obtained overseas would remain subject to the long-standing function of AASW in determining eligibility.

Social Workers without Formal Qualifications

Evidence from some public sector agencies indicates that there are presently individuals working in a social work capacity without formal social work qualifications.¹⁰⁶ The AASW confirmed that this is the case.¹⁰⁷ However, as mentioned above, the AASW is unequivocal in its position that only those with formal tertiary social work qualifications should be registered.

How Many?

Despite the Committee trying to ascertain the number of workers employed under the title **social worker** but without formal social work qualifications, no reliable data was available.¹⁰⁸ In general, the evidence tends to suggest that the number is likely to be small and may for the most part affect a cohort of older workers who entered the system many years ago and who have been working competently within their roles. The Committee wrote to the Department for Child Protection seeking information about the number of workers employed under the title of social worker who do not have formal tertiary qualifications in social work. In response, the Department provided the following:

To carry the title of 'social worker' with DCP [Department for Child Protection], the employee must have a degree level qualification in social work, which gives eligibility for full membership of the Australian Association of Social Workers.

There are two exceptions:

Thirty-three staff in these roles hold non-recognised degrees (Arts, Nursing, Social Sciences and Health Sciences). These employees were 'grandfathered'¹⁰⁹ into the AHP [Allied Health Professionals] stream following its introduction in 2010.

Some (but not all) Aboriginal employees in these roles do not hold a degree in social work but have transferred to this [social work] role via an Aboriginal Family Practitioner role (in recognition of appropriate background and skills). As at 7 August 2019, there are 40 Aboriginal Family Practitioners employed in DCP [as social workers].¹¹⁰

¹⁰⁶ For, e.g., PSA written submission, pp5-8; Lawrie, Hansard, p58; Ward, Hansard, p84.

¹⁰⁷ Smith, Hansard, p5.

¹⁰⁸ See, e.g., Hansard, pp58, 59, 74 where questions were asked about the number of affected workers.

¹⁰⁹ For an explanation of this term and its use refer to the Terminology section of this report on page 9.

¹¹⁰ Department for Child Protection, correspondence, 16 September 2019, p1.

According to the Department for Education, it ‘does not employ non-qualified social workers for positions that require a social work qualification.’¹¹¹ The Department for Health and Wellbeing informed the Committee that ‘all persons employed as social workers by SA Health must hold social work qualifications’ which allows eligibility for full membership of the AASW.¹¹²

Transitional Provisions?

When asked by the Committee whether individuals working as social workers without formal qualifications should be subject to transitional arrangements¹¹³ into the registration process,¹¹⁴ the AASW explained that while those with previous work and/or lived experience may receive recognition for prior learning towards further education, ‘the ultimate aim is that they have a social work degree or equivalent ...’¹¹⁵

While the AASW acknowledges the importance of ‘lived experience’ in social work practice it sees a clear distinction between social workers who have undergone formal training and those who have not:

Social workers have lived experience in a wide range of areas but their actions in practice are guided by professional training ... It is fundamentally a question of where the knowledge base and skills come from, and with social work it is through training and education.¹¹⁶

As mentioned previously, the AASW was unambiguous in its position about social workers without formal social work qualifications: ‘[it] does not support the inclusion of non-qualified social workers in the registration scheme.’¹¹⁷ The Association, does, however, support workers being assisted to obtain the requisite qualifications:

While this workforce falls outside of the scope of our work, we believe greater work needs to be done to better support staff [without formal qualifications] to access social work education. There are numerous ways of achieving this but primarily we believe it is up to the employing organizations to create opportunities for individuals to access further education ...¹¹⁸

In contrast, in its submission, the Public Service Association explained that workers who may not have requisite formal qualifications but who have extensive background working as social workers are ‘experienced, respected workers’ who should be considered in the new registration scheme.

The Association provided an important historical background to the various employment practices and industrial award systems related to public sector social workers.¹¹⁹ In particular, the Association explained that while it is no longer the case that a worker can be employed as a social worker without the requisite qualification, successive enterprise agreements have enabled some workers without

¹¹¹ Department for Education, correspondence, 16 September 2019, p1.

¹¹² Department for Health and Wellbeing, 18 September 2019, p1.

¹¹³ A transitional provision, generally expected to be temporary, essentially exempts certain individuals from any requirement specified in new law thereby allowing them to continue under the old rule/s.

¹¹⁴ Hansard, p5.

¹¹⁵ Smith, Hansard, pp5-6.

¹¹⁶ AASW, written submission, (Final), p11.

¹¹⁷ AASW, Response to Committee Questions, 2019, p11.

¹¹⁸ AASW, Response to Committee Questions, 2019, p11.

¹¹⁹ PSA, written submission, pp5-7.

qualifications to be ‘grandparented’ into the system.¹²⁰ Further, the Association explained that in 2010, two specific exemptions were made in relation to the requirement for formal social work qualifications: for Aboriginal Family Practitioners in the Department for Education and Child Development, and for those social workers who held qualifications no longer recognised by the AASW.¹²¹

Similarly, in its submission the SA government notes that ‘potential *grandfathering* arrangements’ will need to be considered for workers in social work positions whose academic qualifications would impede their registration. According to the submission, such arrangements would help to avoid any ‘negative impacts on service provision’.¹²²

In her evidence, Ms April Lawrie, Commissioner for Aboriginal Children and Young People, supported the introduction of a registration scheme but also expressed concern about the adverse impact on Aboriginal workers who are experienced and competent social workers but who have no formal qualifications:

I speak with reference to the Aboriginal workforce, who might not hold social work qualifications as we would deem through a tertiary setting but would have an extensive work experience, lived experience, in applying legislation and applying policy into practice, who bring their cultural authority [and] ... their cultural experience ... into practice.¹²³

Ms Lawrie told the Committee that Aboriginal children are disproportionately represented in the child protection system in South Australia.¹²⁴ Without the inclusion of a ‘grandparenting’ provision in the proposed legislation, experienced and competent Aboriginal social workers who do not have the requisite tertiary qualifications will not be able to continue to provide Aboriginal young people the support they require:

[Aboriginal children and young people] require our Aboriginal practitioners to be able to provide the direct client service delivery, the case management and the practice delivery for our most vulnerable Aboriginal children and young people in South Australia.¹²⁵

She emphasised the need for any ‘grandparenting’ provision to also incorporate training and development ‘to ensure that the Aboriginal workforce is supported in this aspect.’¹²⁶ Furthermore Ms Lawrie told the Committee that it is important to ensure that non-Aboriginal social workers who work with Aboriginal people are also appropriately trained and competent to work in this cultural context.¹²⁷

In her evidence, Ms Shona Reid, Executive Director, Reconciliation SA, emphasised the overrepresentation of Aboriginal people experiencing social, economic and health disadvantage.¹²⁸ She told the Committee that Aboriginal social workers who do not have formal qualifications should be

¹²⁰ PSA, written submission, pp6, 7.

¹²¹ PSA, written submission, p7.

¹²² SA Government submission, 2019, p7.

¹²³ Lawrie, Hansard, p58.

¹²⁴ Lawrie, Hansard, p61.

¹²⁵ Lawrie, Hansard, p58.

¹²⁶ Lawrie, Hansard, p58.

¹²⁷ Lawrie, Hansard, p58.

¹²⁸ Reid, Hansard, p72.

recognised for the ‘contributions’ they have made to support their communities; contributions which are ‘as valid and important’ as those of formally qualified social workers.¹²⁹

Ms Reid reminded the Committee of the dispossession and ‘overt racism’ that Aboriginal people have suffered during ‘Australia’s colonial history’.¹³⁰ Racism and past ‘trauma’ – which saw the removal of Aboriginal children from their families – have presented significant barriers for some Aboriginal people to enter tertiary educational institutions to gain formal qualifications:

There is trauma that exists around entering an education system for [some] people in that age...not every instance, but there are some who did not want to engage in university conversations or schooling. There was trauma attached to that, and that needs to be respected and understood. That is where I think there needs to be ... something that aligns with the scheme to support people who are currently working in social work positions or positions categorised as social work positions but do not want to go to university.¹³¹

New Zealand Experience: Social Workers without Formal Qualification

The Committee was keen to know if and how the New Zealand mandatory registration scheme accommodates those workers who hold the title of social worker but who do not have the requisite qualifications in social work required for registration.

According to Ms Sandford-Reed, Section 13 of the New Zealand legislation provides an ‘experience-based pathway’ to enable registration for social workers who do not hold any formal qualifications in social work, but who have achieved a significant breadth of experience in social work.

While it is not clear how many workers in South Australia would fall within this category, Ms Sandford-Reed told the Committee that in New Zealand there are currently 216 workers registered under this section, representing 2.4% of the total number of registered social workers.¹³² Approval for this pathway is the responsibility of the Board, which determines whether those who do not have a recognised social work qualification can register.

Ms Sandford-Reed explained that the experience pathway involves two stages as shown in Figure 1 with each stage having a required timeframe.

The total cost for the experience pathway process including external assessment¹³³ is \$2439.¹³⁴ Ms Sandford-Reed further explained that as part of recent amendments to the New Zealand legislation, this ‘experience pathway’ (essentially a ‘grandparenting section’) has been repealed and will cease to exist from 27 February 2024. In other words, after this date registration of social workers will require a formal social work qualification.

¹²⁹ Reid, Hansard, p73.

¹³⁰ Reid, Hansard, p71.

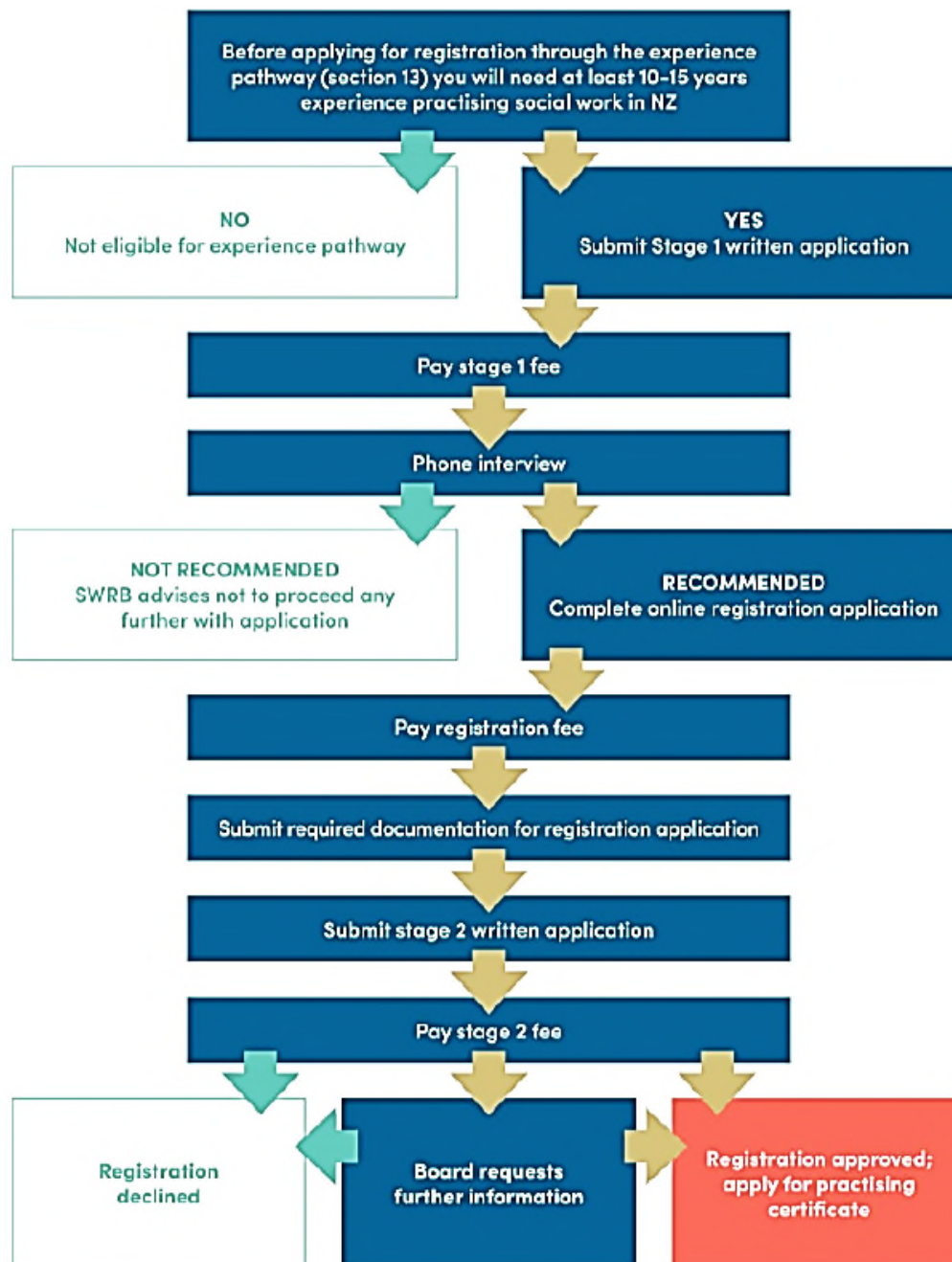
¹³¹ Reid, Hansard, p73.

¹³² Sandford-Reed, Hansard, p109.

¹³³ External assessment is undertaken by registered social workers contracted by the Social Work Registration Board, (Sandford-Reed, Hansard, p113).

¹³⁴ Sandford-Reed, Hansard, pp108, 110. **NB:** NZ dollars.

Figure 1: Experience Pathway (New Zealand)¹³⁵



¹³⁵ <https://swrb.govt.nz/social-workers/experience-pathway-s13/>

COMMITTEE COMMENT

The Committee heard divergent views from witnesses about whether those social workers who do not hold formal tertiary qualifications should be included in the registration scheme. The Committee understands that such workers, both Aboriginal and non-Aboriginal, have worked alongside other formally qualified social workers in the public sector for many years. Evidence presented to the inquiry suggests the number of affected workers is small. Importantly, the Committee recognises that successive enterprise agreements have already enabled these experienced workers to be awarded the title social worker.

The Committee is mindful that in relation to Aboriginal people, past government policies, including social work interventions, have contributed to ongoing trauma. Excluding those Aboriginal *social workers* from a registration scheme, solely on the basis that they have no formal tertiary qualifications, not only disrespects their extensive work experience and cultural competence, it also serves to further disadvantage those families and communities with whom they have closely worked and supported over many years.

The Committee considers that these workers have every right to be recognised in a social work registration scheme. It considers it reasonable to allow a transitional period during which any affected workers can apply for registration.

The Committee considers that an ‘experience-based pathway’, similar to that operating in New Zealand, should be incorporated into the Social Workers Registration Bill. This pathway will allow those who are already employed in the public sector as social workers, without the requisite qualifications, to be assessed to demonstrate they are appropriately skilled and competent for registration.

Fit and Proper

Subclause 16(c) of the Bill currently stipulates eligibility for registration requires the person to be a ‘fit and proper person’.¹³⁶ However, no definition of what constitutes ***fit and proper*** is provided in the proposed legislation.¹³⁷ In its submission, the University of South Australia recommends that there ought to be a clearer statement of what is meant by ***fit and proper*** person.¹³⁸

Concern was also raised about the process of investigation the Board might take in relation in a social worker seeking registration who has an illness or disability. In its present form the proposed legislation gives the Board powers to investigate a social worker’s illness or disability where there is concern that this condition may interfere with their capacity to practice as a social worker. Specifically, clause 17 of the proposed legislation states:

¹³⁶ Subclause 16(c).

¹³⁷ Subclause 16(c).

¹³⁸ University of South Australia, written submission, p6.

17—Application for registration

- (1) An application for registration as a social worker must—
 - (a) be made to the Board in the manner and form prescribed by the Board; and
 - (b) be accompanied by the fee prescribed by regulation.
- (2) An application for registration must—
 - (a) consent to the conduct by the Board of a criminal record check relating to the applicant; and
 - (b) if the Board so requires for the purpose of determining whether the applicant's capacity to practise as a social worker is seriously impaired by an illness or disability affecting the applicant's behaviour or competence as a social worker—
 - (i) submit to a medical examination by a medical practitioner selected by the applicant from a panel of medical practitioners nominated by the Board; and
 - (ii) provide, or authorise the medical practitioner to provide, a report on the results of the medical examination to the Board; and
 - (c) provide the Board with any information required by the Board for the purposes of determining the application, verified, if the Board so requires, by statutory declaration.
- (3) An applicant for registration must pay, in addition to the prescribed fee, an amount specified by the Board, being an amount payable by the Board for the conduct by the Board of a criminal record check relating to the applicant.
- (4) An application for renewal of registration must be made not less than 1 month before the expiry of the registration.

Subclause 17(2)(b) stipulates that the Board may direct a social worker to submit to a medical examination by a medical practitioner chosen by the applicant from a list provided to the social worker; and further, that the Board may also seek additional information from the applicant that it deems relevant to the illness or disability, subclause 17(2)(c).¹³⁹

In her submission Dr Naomi Blake, social worker and academic, expressed concern that without defined parameters, the Board's powers to delve into an applicant's medical and work history is potentially stigmatising and discriminatory.¹⁴⁰ Dr Blake suggests there should be greater clarity about the extent of information that an applicant would need to provide and that there should also be capacity for the social worker to submit evidence from their own treating practitioner. Furthermore, Dr Blake expressed concern that the proposed legislation does not specify who bears responsibility for payment where the Board requires a medical assessment to be undertaken.¹⁴¹

¹³⁹ Social Workers Bill 2018, Part 3 subclause 17(2)(b) and subclause 17(2)(c).

¹⁴⁰ Blake, written submission, p3.

¹⁴¹ Blake, written submission, pp2,3.

Criminal History Check and Vulnerable Groups

The Bill, in its current form, specifies that a person is eligible for registration as a social worker if, among other things, they have a ‘working with children check’.¹⁴² Later, in subclause 17(2)(a), the Bill makes reference to a ‘criminal record check’.¹⁴³

In its submission, the SA government expressed concern that the Bill, in its current form, focuses particularly on ‘child related social work’ rather than recognising the broad range of work undertaken by social workers with ‘vulnerable adults’ in areas such as health, disability, justice and other community services.¹⁴⁴ Likewise, the University of South Australia in its submission recognises the need to include ‘other vulnerable people’ as part of the proposed legislation.¹⁴⁵ It considers that some of the detail about working with vulnerable groups would be better placed in the regulations.¹⁴⁶

The SA government submission has called for a broader requirement of a National Police Certificate. The submission also notes that legislation already exists for child safety checks for individuals who will be working with children and that there are ‘other types of screening clearances’ required for specific employment roles. Accordingly, the submission recommends that some clearances are more appropriately placed with the employer rather than being embedded within legislation.¹⁴⁷

COMMITTEE COMMENT

The Committee is pleased that the proposed Bill links ‘the working with children check’ to the registration process. However, the Committee agrees that a criminal history check needs be more extensive in recognition of the broad range of vulnerable groups that engage with social workers, including among others, children, older persons and people with disabilities. The Committee, therefore, recommends that the Bill be amended to expand the screening checks required as part of the registration process.

Constitution of the Board

Some concern was expressed about the Board selection and composition. Subclause 5(1) of the Bill currently provides for the Board to consist of ‘7 members appointed by the Governor *on the nomination of the Australian Association of Social Workers ...*’ (emphasis added).

As previously stated, while the AASW is the professional body that sets the practice standards and educational requirements for social work, only one-third of qualified social workers are currently members of the Association.¹⁴⁸

The Committee wrote to the AASW asking why it considered that their organisation should be responsible for nominating membership to the Governor. In its written response, the AASW reiterated

¹⁴² S16(b) (emphasis added).

¹⁴³ Social Workers Registration Bill, 2018. Part 3, subclause 16(b) and subclause 17(2)(a).

¹⁴⁴ SA Government, written submission, p3.

¹⁴⁵ University of South Australia, written submission, p6.

¹⁴⁶ University of South Australia, written submission, p6.

¹⁴⁷ SA Government, written submission, p5.

¹⁴⁸ AASW, written submission, (Final), pp1-2, 5.

the key role its organisation plays in the regulation and education of social workers. The AASW stated that as such it is important that it have representation on the Board.

The AASW is the peak representational and regulatory body for social work in Australia, while membership of the association is approximately a third of the general workforce, we regulate the education of **all 32,000 qualified social workers**. Therefore, it is important that the AASW is represented on the Board to make sure that state decisions are consistent with federal practices. Furthermore, our reading of the Bill, is that the AASW can nominate but ultimately it is still the decision of the Governor.¹⁴⁹

Conversely, a number of submissions proposed that the clause referring to the nomination by the AASW be redrafted in favour of an open advertising process. For example, in her submission, Associate Professor Lorna Hallahan offered the following explanation:

[The Australian Association of Social Workers] is not a representative body; it is a membership group... we do not believe that locating nomination exclusively with the AASW is in the best, long term interests of the profession and the higher level of accountability emerging through registration. It is vital that from the outset, the Board is seen as broadly representative of the profession in order to establish legitimacy and mandate.¹⁵⁰

Associate Professor Hallahan recommends that the Bill be amended to enable Board membership from an 'open application' process made to the Minister. In its written submission, Child and Family Focus SA indicated that it likewise supports this amendment to the Bill.¹⁵¹

In its submission, the SA government also supports a change to the wording of subclause 5(1). It proposes that the appointment of Board members be made on nomination of the Minister and offers the following amendment:

[the] Board consists of up to 7 members appointed by the Governor on the nomination of the Minister, being persons who collectively have, in the opinion of the Minister, the knowledge, skills and experience necessary to enable the Board to carry out its functions effectively.

Given the differing views in relation to the nomination process for the Board, the Committee was interested to know how the New Zealand legislation deals with the criteria for Board appointment. In examining the legislation, the Committee notes that the process appears to be an open application process requiring the Minister to engage in broad consultation to ensure the Board is representative of various sectors of the community and the social work profession. Specifically, Schedule 1, section 2(1) of the *Social Workers Registration Act 2003* (NZ) states:

Members must be appointed by the Minister under section 28(1)(a) of the Crown Entities Act 2004 after consultation with organisations and individuals that, in the Minister's opinion, represent various sectors of the social work profession.

¹⁴⁹ AASW, Response to Committee Questions, 2019, p10 (bold emphasis in the original).

¹⁵⁰ Hallahan, written submission, p11.

¹⁵¹ Child and Family Focus SA, written submission, p4.

Board Membership

Apart from some debate about how the Board membership ought to be selected, submissions to the Inquiry also expressed various views about the composition of the Board.

Clause 5(1) of the Bill provides for 7 members on the Board. Specifically, subclause 5(1)(a)(b)(c) states:

5—Constitution of Board

- (1) The Board consists of 7 members appointed by the Governor on the nomination of the Australian Association of Social Workers, of whom—
 - (a) 3 must be social workers; and
 - (b) 1 must be a legal practitioner; and
 - (c) 1 must be a representative of the general community.

In its submission, the AASW has called for an additional social worker position on the Board taking the number from three to four. This proposed change would result in a majority of social workers, in line with the Board composition for AHPRA.¹⁵² The AASW explained:

Our ... pressing concern is the need for the composition for the social workers on the board be increased so that it has a majority of social workers (from 3 to 4 of the 7), similar to the APHRA board model. We strongly believe that given the statutory authority this board has over the social work profession: it should have a greater social work presence.¹⁵³

While the AASW supports a greater representation of social workers on the Board it expressly states that at least one practitioner should be an AASW member. In addition, the Association seeks 2 community members, with at least one being an Aboriginal and/or Torres Strait Islander representative. It also calls for at least one member of the Board to live in a regional or rural area. In its submission, the AASW argues that the Board should be broadly representative of the profession that it regulates. Specifically, it calls for the Bill to be amended to expressly state ‘that the Minister must ensure that the demographics of the profession are reflected in the composition of the Board’ (under Part 2—Social Workers Registration Board of South Australia 5(2)).

In her evidence, Associate Professor Lorna Hallahan suggested that the Board composition should be further elaborated under subordinate legislation and supported the inclusion of at least two community representatives as well as representation from the Australian First Nations stakeholders.¹⁵⁴

The appointment of an Aboriginal person to the Board was also supported in the submission from the SA government. That submission also calls for at least one male and one female representative and a person who is currently working as a social worker.¹⁵⁵

¹⁵² AASW, written submission, (Final), p7.

¹⁵³ AASW, Response to Committee Questions, 2019, p10.

¹⁵⁴ Hallahan, written submission, p11.

¹⁵⁵ SA Government, written submission, p6.

COMMITTEE COMMENT

The Committee acknowledges the AASW as the peak body representing social work in Australia. However, evidence suggests around two-thirds of the social work workforce are not members of that Association. As such, the Committee favours an open application process for nominations to the Social Workers Registration Board. The Committee considers that an open application process is a reasonable approach and will not preclude, in any way, the AASW from nomination for membership to the Social Workers Registration Board. The Committee notes that the New Zealand legislation does not include any requirement for the selection of the Social Work Registration Board to be nominated by the Aotearoa New Zealand Association of Social Workers.¹⁵⁶

That said, the Committee strongly agrees that the Board should comprise a majority of social workers and should reflect the demographic diversity of the community.

Functions of Board

The Bill sets out a number of Board functions including establishing and maintaining a register of practitioners and dealing with complaints and disciplinary matters.¹⁵⁷ The Bill also allows for the Board to endorse a ‘code of conduct or professional standard’ and if so, ensure that the code, standards or guidelines be available on the Board’s website.¹⁵⁸ The Committee heard that the AASW Code of Ethics and Code of Practice Standards inform the social work profession about their role and responsibilities. The AASW and the University of South Australia would like the Bill to reference these documents in the legislation.¹⁵⁹ Specifically, the University of South Australia seeks the following amendment:

That the Board endorses the AASW Code of Ethics and AASW Practice Standards as varied from time to time.

In her written submission, Associate Professor Hallahan, emphasised the vulnerability of many clients who use social work services and, as such, ought to be appropriately supported through any complaints process. She recommends that the Bill be amended to include a requirement that the Board provide support to aggrieved parties.¹⁶⁰ According to Associate Professor Hallahan, this support should also be extended to social workers who experience potential reputational damage where a grievance is not substantiated.¹⁶¹

In its submission, the SA government briefly mentioned the need for the functions and powers of the Social Workers Registration Board to be further examined in relation to their potential interface with existing bodies such as the South Australian Civil and Administrative Tribunal and the Australian Health Practitioners Regulation Agency (AHPRA). The submission, however, did not elaborate on this issue nor did it suggest any specific amendment to the Bill.¹⁶²

¹⁵⁶ See *Social Workers Registration Act 2003* (NZ) Schedule 1, section 2(1); see also Sandford-Reed, Hansard, p111. Ms Sandford-Reed told the Committee that Board nominations are determined by the Minister who seeks expressions of interest from a broad range of stakeholders including the Aotearoa New Zealand Association of Social Workers, see Hansard, p112.

¹⁵⁷ Social Workers Registration Bill 2018, clause 9.

¹⁵⁸ Social Workers Registration Bill 2018, subclause 9(3).

¹⁵⁹ Smith, Hansard p4; University of South Australia, written submission, p5.

¹⁶⁰ Hallahan, written submission, p8.

¹⁶¹ Hallahan, written submission, p11.

¹⁶² SA Government, written submission, pp4,6.

Unprofessional Conduct and Disciplinary Action

The AASW indicated that the Bill needs to have greater clarity around ethical guidelines and unprofessional conduct. It points out that the Bill currently contains numerous references to ‘incompetence or disgraceful or improper conduct’ without sufficient detail.¹⁶³

In a similar vein, the SA government submission also expresses concern about the lack of definition around ‘unprofessional conduct’. It suggests that term could be replaced with ‘misconduct’ through the proposed legislation and a broader definition inserted. Moreover, the SA government submission is critical of the Bill in that it does not provide a range of disciplinary actions as a result of unprofessional conduct, ‘it only provides for practice restriction and de-registration’ without allowing for a series of warnings or supervised practice.¹⁶⁴ The government also recommends that there be a requirement for the Board to notify an employer of any disciplinary action taken against an employee.¹⁶⁵

New Zealand Experience

The Committee was interested to know how the New Zealand registration framework dealt with disciplinary matters. Ms Sanford-Reed told the Committee that mandatory reporting is a legal requirement under the New Zealand legislation. The New Zealand legislation requires employers to promptly notify the Social Work Registration Board in writing if they believe on reasonable grounds a social worker they employ has engaged in serious misconduct.¹⁶⁶ The term ‘serious misconduct’ is defined in the legislation as conduct that:

- has, or is likely to have an unduly adverse effect on the wellbeing of any person with whom the social worker comes into contact in the course of their practice as a social worker; or
- reflects adversely on the social worker’s fitness to be a social worker, and
- is of a character and severity that meets the Board’s criteria for reporting serious misconduct.

Ms Sanford-Reed explained that in the first instance it is incumbent upon employers to support social workers who are considered to lack competence to achieve the required level of proficiency.¹⁶⁷ Should a social worker not achieve competency, the employer is then required to notify the Board.¹⁶⁸ Employers are also required to report if a social worker is unable to perform their role because of mental health or physical health issues and where a social worker is suspected of engaging in serious misconduct.¹⁶⁹ Ms Sanford-Reed told the Committee that in addition to employers, social workers themselves have mandatory reporting requirements if they suspect a colleague is unable to carry out their duties because of mental or physical health concerns.¹⁷⁰

Ms Sanford-Reed told the Committee that the Board is developing criteria to define serious misconduct.¹⁷¹ To this end, the Board has recently developed a set of draft criteria designed to assist

¹⁶³ AASW, written submission, (Final), p15.

¹⁶⁴ SA Government, written submission, p6.

¹⁶⁵ SA Government, written submission, p6.

¹⁶⁶ *Social Workers Registration Act 2003* (NZ), s47A.

¹⁶⁷ Sanford-Reed, Hansard, p109.

¹⁶⁸ Sanford-Reed, Hansard, p109.

¹⁶⁹ Sanford-Reed, Hansard, p109.

¹⁷⁰ Sanford-Reed, Hansard, p109.

¹⁷¹ Sanford-Reed, Hansard, p109; see also *Social Workers Registration Act 2003* (NZ), s99(1)(oa).

employers to determine whether a social worker's conduct ought to be subject to mandatory notification. Among other things, the draft criteria include:

- Failing to protect a client due to deliberate or reckless negligence
- Use of unjustified physical force on any person
- Workplace bullying, theft or dishonesty/fraud that is severe enough to undermine the employer's trust and confidence in the social worker's suitability to practise social work
- Viewing, accessing, or possessing pornography at work
- Involvement in the manufacture, cultivation, supply, or use of controlled drugs
- Engaging in inappropriate contact or behaviours with or towards a client or vulnerable person
- Engaging in inappropriate communications with or towards a client or vulnerable person
- Harassment of any person
- Being impaired by drugs or alcohol while responsible for the welfare of a client or vulnerable person
- Physical, sexual, psychological or emotional abuse of any person
- Any act or pattern of behaviour that is likely to bring discredit to the social work profession.¹⁷²

Separate Tribunal for Disciplinary Matters – New Zealand

In relation to complaints and disciplinary matters, the Committee was told that as part of the New Zealand legislative framework, this function is performed in part by the Social Worker Registration Board (New Zealand) but also a separate disciplinary tribunal. Ms Sandford-Reed considered this separation of functions to be an important part of the regulatory framework:

We have always had a split: we have had the registration board, which has been concerned with registration matters, and we have had a complaints and disciplinary tribunal, which is independent ... it's serviced by the board but it's a separate group of people. There's the chair and the deputy chair, both of whom have to be barristers or solicitors, and there are five registered social workers and one or more laypeople who are appointed to the complaints and disciplinary tribunal. When there's a hearing, there [is] either the chair or the deputy chair ... three of the five social workers and one of the laypeople, so that there's a bit of distancing between the board function, which is about registering.¹⁷³

Public Hearings for Disciplinary Matters

Brief mention was made about the possibility that some matters dealt by the Board would warrant public hearings and greater transparency, specifically in situations in which the 'public interest' outweighs the need for confidentiality.¹⁷⁴ Associate Professor Hallahan told the Committee that such transparency is 'a very delicate line to walk' in relation to confidentiality but being more open would create a greater sense of legitimacy in the public view.¹⁷⁵ She submitted that there were two 'compelling' reasons to hold public hearings:

¹⁷² Social Workers Registration Board, Mandatory Reporting, <https://swrb.govt.nz/employers/employers-mandatory-reporting/>

¹⁷³ Sandford-Reed, Hansard, p114.

¹⁷⁴ Hallahan, Hansard, p41.

¹⁷⁵ Hallahan, Hansard, p41.

- balancing the privacy needs of aggrieved persons, employers and the reputational needs of social workers with a wider public interest relating to the complaint being investigated and determined; and
- the importance of building and maintaining legitimacy in the process and a reasonable public expectation that the processes will be transparent.

While Associate Professor Hallahan stated that annual reporting to Parliament and a public register will contribute to greater transparency, she still considered that the Board should have the power to hold open hearings in a range of matters. This will enable aggrieved persons and employers, as well as other registered social workers to observe the process; consider the nature of evidence; and observe the deliberative nature of decision-making. This may be particularly relevant in instances where the likely outcome is some form of conditional registration.¹⁷⁶

In its submission, the AASW also commented that there may be circumstances in which the public interest may warrant a public hearing. However, it considers that further examination and consultation is necessary to ensure a proper framework is developed.¹⁷⁷

Cost of Registration

The proposed legislation in South Australia requires three-yearly renewal of registration.¹⁷⁸ Some concern was expressed about the ‘notoriously expensive’ costs of registration.¹⁷⁹ This may be especially difficult for social workers many of whom work part-time or in some cases, a voluntary capacity.¹⁸⁰ In its submission, the SA government also raised concerns about whether registration fees would be adequate to meet the costs of administering the registration scheme. The government also discussed the impost that may be placed on employers to support their social workers meeting the cost of registration and also the impact of time-off due to continuing professional development requirements.¹⁸¹

However, it was also recognised that paying for registration is ‘something which professionals customarily undertake’¹⁸² and then claim as part of an allowable tax deduction.¹⁸³ It was noted that in some cases, the employer may agree to cover the registration fee as part of the employment contract negotiation. Nonetheless, the Committee understands that this will not always be the case and there will be a general expectation that social workers will, as part of their profession, be required to cover their own professional registration fees.

In contrast, the New Zealand model has a ‘one-off’ registration fee which is carried for life with a requirement to renew a practising certificate each year. Ms Sandford-Reed explained that the rationale to have a one-off registration fee was a simpler process for social workers who may take leave from practise at intervals during their career.¹⁸⁴ She further explained that any restrictions on practice, for example when supervision of a worker is deemed necessary, are recorded on the annual practising certificate.¹⁸⁵

¹⁷⁶ See, Social Workers Registration Bill 2018, clause 19.

¹⁷⁷ AASW, written submission, (Final), p14.

¹⁷⁸ Social Workers Registration Bill 2018, clause 20(1)(a).

¹⁷⁹ Layton, written submission, p2.

¹⁸⁰ Layton, written submission, p2.

¹⁸¹ SA Government, written submission, p4.

¹⁸² Sandeman, Hansard, p120.

¹⁸³ Penna, Hansard, p120.

¹⁸⁴ Sandford-Reed, Hansard, p106.

¹⁸⁵ Sandford-Reed, Hansard, p106.

In relation to costs of registration,¹⁸⁶ the New Zealand model is as follows:

Registration application fee (one-off)	\$345
Annual Practising Certificate fee	\$368
Practising Certificate (new graduate) application fee	\$268
Disciplinary Levy	\$50

Extended Time out of the Profession

Some concern was expressed about how those social workers who have been out of the workforce for some time might be accommodated by the new legislation, for example those who are semi-retired or have taken extended leave. While more evidence may need to be gathered around this issue to identify an appropriate pathway for those out of the workforce to re-enter the profession, the AASW indicated that it supports the AHPRA model and considers that similar processes and guidelines for social workers, including timeframes should be developed.¹⁸⁷ According to the AASW, as part of the AHPRA model, registered practitioners who take a break from practice in Australia with an intention to return must fulfil the requirements for ‘recency of practice’.¹⁸⁸ This requires them to demonstrate they have undertaken practice recently enough to still be competent to return to their professional work. The AASW recommends that a similar model be developed for social workers as part of the regulations.¹⁸⁹

COMMITTEE COMMENT

The Committee agrees that the proposed legislation should make provisions for those social workers who have taken extended leave or retired and who wish to re-enter the workforce. The Committee considers that an additional registration stream be included for those workers to maintain some form of registration as appropriate.

Student Registration

Among the teaching institutions, there was general support for student registration.

In its submission, Flinders University supported a registration scheme that includes social work students believing that it would enable better tracking, monitoring and support of social work students.¹⁹⁰ It was thought that registration would make students more accountable to those standards and principles that govern the profession as well as requiring them to demonstrate fitness to practice.¹⁹¹

¹⁸⁶ Sandford-Reed, Hansard, p108. **NB:** All amounts are in NZ dollars.

¹⁸⁷ AASW, written submission, (Final), p18.

¹⁸⁸ AASW, written submission, (Final), p18.

¹⁸⁹ AASW, written submission, (Final), p19.

¹⁹⁰ Hallahan, Hansard, p40.

¹⁹¹ Moulding, Hansard, p48.

When asked its view, the University of South Australia took the question on notice and subsequently provided a ‘position paper’ which, among other things, concludes ‘that the registration of social work students should be included within the ... Bill’.¹⁹² The University notes that student registration is in place for other health professions such as nursing and occupational therapy.¹⁹³ However, the University cautions that any inclusion of students in the registration scheme should not ‘place undue administrative or cost burdens on universities or students’.¹⁹⁴

However, there was some difference in the approach taken by the Australian Association of Social Workers. While it supported, in-principle, the inclusion of social work students in the registration scheme, it submitted that any such inclusion needed ‘greater consideration and consultation’ before any further development.¹⁹⁵

Given the Committee heard some contrasting evidence regarding the registration of social work students in South Australia, it was keen to hear how this issue was dealt with in New Zealand as part of its registration scheme. Ms Sandford-Reed told the Committee that students were excluded from the registration scheme for a number of reasons: in recognition that not all students with a social work degree will go on to work in the profession; as part of practical placement students are in a ‘learning environment and not in a practising environment’; and universities and/or students would incur an unnecessary cost imposition.¹⁹⁶

COMMITTEE COMMENT

The Committee considers there is merit in the inclusion of social work students in the registration scheme, especially at the point in which they enter the significant practical component of their training. A particular form of registration of social work students may provide significant benefits and improve public safety. However, the Committee supports the Australian Association of Social Workers’ position in deferring the registration of students and restricting the scheme, in the first instance, to qualified social workers, allowing time for the scheme to be properly bedded down and evaluated.

Concluding Remarks

In the absence of a federal scheme, submissions to the inquiry overwhelmingly expressed support for a state-based system of registration. The Committee notes that registration will not, in and of itself, automatically ensure safe and effective social work practice. The recent coronial inquests, while calling for social work registration, have been critical of, among other things, the child protection system’s lack of understanding of, and compliance with, its statutory obligations.¹⁹⁷ Notwithstanding, the Committee is of the view that legislative reform is urgently needed. It considers that the proposed legislation will provide a solid framework towards improving the accountability and standards of the social work profession.

¹⁹² University of South Australia, Position Paper on Student Registration, p1.

¹⁹³ University of South Australia, Position Paper on Student Registration, p1.

¹⁹⁴ University of South Australia, Position Paper on Student Registration, p2.

¹⁹⁵ AASW, written submission, (Final), pp4, 17.

¹⁹⁶ Sandford-Reed, Hansard, p113.

¹⁹⁷ See e.g., paragraph numbers 13.6, 13.9, 13.17, 13.18, 13.19. Inquest into the Death of Chloe Lee Valentine (9 April, 2015).

The Committee recommends that the Social Workers Registration Bill be passed subject to the recommendations it has made. It has instructed the Office of Parliamentary Counsel to redraft the Bill in line with the recommendations contained in this report.

The Hon. T. A. Franks

Chairperson

3 December 2020

APPENDIX 1 - WITNESSES

JOINT COMMITTEE ON THE REGISTRATION OF SOCIAL WORKERS BILL 2018

SCHEDULE OF WITNESSES (In order of appearance)

Public evidence was received from the following persons and organisations:

Wednesday, 30 January 2019

Australian Association of Social Workers

Anita Phillips, Board Director

Cindy Smith, Chief Executive Officer

Debra Parnell, Manager, Social Policy and Advocacy

Patricia Muncey, South Australian Branch President

South Australian Council of Social Service

Ross Womersley, Chief Executive Officer

Catherine Earl, Senior Policy, Advocacy and Community Engagement Officer

Public Service Association

Ian Peak, Senior Industrial Officer

Wednesday, 13 March 2019

Flinders University

Associate Professor Lorna Hallahan, Head and Teaching Programs Director (Social Work), College of Education, Psychology and Social Work; and President, Australian Council of Heads of Schools of Social Work

Professor Sarah Wendt, Social Work, College of Education, Psychology and Social Work

University of South Australia

Professor Kurt Lushington, Head of School, School of Psychology, Social Work and Social Policy

Professor Nicole Moulding, Discipline Head, Social Work and Human Services, School of Psychology, Social Work and Social Policy

Dr Helena de Anstiss, Program Director, Bachelor of Social Work, School of Psychology, Social Work and Social Policy

Patricia Muncey, Manager, Field Education, School of Psychology, Social Work and Social Policy

Wednesday, 10 April 2019

April Lawrie, Commissioner for Aboriginal Children and Young People

Shona Reid, Executive Director, Reconciliation SA

Wednesday, 7 August 2019

Catherine Turnbull, Chief Allied and Scientific Health Officer, Department for Health and Wellbeing

Fiona Ward, Deputy Chief Executive, Department for Child Protection

Wednesday, 18 September 2019

Australian Association of Social Workers

Anita Phillips, Board Director

Cindy Smith, Chief Executive Officer

Debra Parnell, Manager, Social Policy and Advocacy

Patricia Muncey, South Australian Branch President

Sebastian Cordoba, Social Policy and Advocacy

Wednesday, 10 June 2020

Lucy Sandford-Reed, Chief Executive, Aotearoa New Zealand Association of Social Workers

Anglicare SA

Peter Sandeman, Chief Executive Officer

Nancy Penna, General Manager, Community Services

APPENDIX 2 - SUBMISSIONS

JOINT COMMITTEE ON THE REGISTRATION OF SOCIAL WORKERS BILL 2018

SCHEDULE OF SUBMISSIONS

1.	Social Inclusion and Social Policy Research Unit, Department of Social Work, Monash University
2.	Ron Layton
3.	Professor Kurt Lushigton et. al School of Psychology, Social Work and Social Policy, Division of Education, Arts and Social Sciences, University of South Australia
4.	Associate Professor Lorna Hallahan, Head and Teaching Programs Director (Social Work), Flinders University
5.	Child and Family Focus
6.	Public Service Association
7.	Dr Naomi Blake
8.	SA Government
9A &9B	Aust. Assoc. of Social Workers

Legislative Council—No 45

As introduced and read a first time, 5 September 2018

South Australia

Social Workers Registration Bill 2018

A BILL FOR

An Act to make provision for the registration of social workers; to establish the Social Workers Registration Board; and for other purposes.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Interpretation

Part 2—Social Workers Registration Board of South Australia

- 4 Establishment of Board
- 5 Constitution of Board
- 6 Terms and conditions of membership
- 7 Vacancies or defects in appointment of members
- 8 Remuneration
- 9 Functions of Board
- 10 Registrar of Board
- 11 Procedures of Board
- 12 Conflict of interest under Public Sector (Honesty and Accountability) Act
- 13 Accounts and audit
- 14 Annual report

Part 3—Registration

- 15 Requirement to be registered
- 16 Eligibility for registration
- 17 Application for registration
- 18 Grant of registration
- 19 Conditions of registration
- 20 Term of registration
- 21 Requirement for provision of information
- 22 Register
- 23 Certificates of registration

Part 4—Offences

- 24 Holding out as being registered
- 25 Holding out concerning a registration subject to conditions
- 26 Offence to contravene conditions of registration
- 27 Procurement of registration by fraud
- 28 Social worker to produce certificate of registration

Part 5—Investigations and proceedings

- 29 Cause for disciplinary action
- 30 Employer to report dismissal etc for unprofessional conduct
- 31 Registrar may conduct investigation
- 32 Inquiries and disciplinary action
- 33 Notification by Registrar of inquiry and outcome
- 34 Variation or revocation of conditions imposed by Board
- 35 Constitution of Board for purpose of proceedings
- 36 Principles governing proceedings
- 37 Representation at proceedings before Board
- 38 Powers of Board in relation to witnesses etc
- 39 Provisions as to proceedings before Board
- 40 Costs

Part 6—Appeals

- 41 Right of appeal to South Australian Civil and Administrative Tribunal
- 42 Operation of order may be suspended
- 43 Variation or revocation of conditions imposed by Tribunal

Part 7—Miscellaneous

- 44 Exemptions
- 45 Statutory declarations
- 46 False or misleading statement
- 47 Self-incrimination
- 48 Punishment of conduct that constitutes an offence
- 49 Payment of fines
- 50 Ministerial review of decisions relating to courses
- 51 Confidentiality
- 52 Service of documents
- 53 Regulations

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Social Workers Registration Act 2018*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Interpretation

- (1) In this Act, unless the contrary intention appears—

Board means the Social Workers Registration Board of South Australia;

condition includes a limitation;

legal practitioner has the same meaning as within the *Legal Practitioners Act 1981*;

register means the register of social workers established and maintained under section 22;

registered social worker means a person registered as a social worker under Part 3;

Registrar means the Registrar of the Board appointed under section 10, or a person acting in the position of the Registrar;

respondent—see section 32;

unprofessional conduct means—

- (a) a contravention of this Act; or

- (b) a contravention of a condition of registration as a social worker under this Act; or

- (c) incompetence; or
- (d) disgraceful or improper conduct.

(2) For the purposes of this Act—

- (a) **social work** is a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people; and
- (b) **social work services** includes the provision of services relating to social work, but does not include services, or services of a kind, excluded from the ambit of this definition by the regulations.

(3) A reference in this Act—

- (a) to **unprofessional conduct** extends to—
 - (i) unprofessional conduct committed before the commencement of this Act; and
 - (ii) unprofessional conduct committed within or outside South Australia or the Commonwealth; and
- (b) to **engaging in conduct** includes a reference to failing or refusing to engage in conduct.

Part 2—Social Workers Registration Board of South Australia

4—Establishment of Board

(1) The *Social Workers Registration Board of South Australia* is established.

(2) The Board—

- (a) is a body corporate; and
- (b) has perpetual succession and a common seal; and
- (c) is capable of suing and being sued in its corporate name; and
- (d) has all the powers of a natural person that are capable of being exercised by a body corporate; and
- (e) has the functions and powers assigned or conferred on the Board under this Act.

(3) If a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the document was duly executed by the Board.

5—Constitution of Board

(1) The Board consists of 7 members appointed by the Governor on the nomination of the Australian Association of Social Workers, of whom—

- (a) 3 must be social workers; and
- (b) 1 must be a legal practitioner; and
- (c) 1 must be a representative of the general community.

(2) The Minister—

- (a) must, after consultation with the Board, appoint 1 of the members to preside at meetings of the Board (the **presiding member**); and
- (b) must, after consultation with the Board, appoint 1 of the members to preside at meetings of the Board in the absence of the presiding member (the **deputy presiding member**); and
- (c) may appoint a person to be a proxy of any member (other than the presiding member) and a person so appointed may act as a member of the Board in the absence of the member.

(3) The requirements of qualification and nomination (if applicable) made by this section in relation to the appointment of a member extend to the appointment of a proxy of that member.

6—Terms and conditions of membership

(1) A member of the Board will be appointed on conditions determined by the Governor and for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, is eligible for reappointment.

(2) The Governor may remove a member of the Board from office for—

- (a) breach of, or non-compliance with, a condition of appointment; or
- (b) misconduct; or
- (c) failure or incapacity to carry out official duties satisfactorily.

(3) The office of a member of the Board becomes vacant if the member—

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by written notice to the Minister; or
- (d) is convicted of an indictable offence or is sentenced to imprisonment for an offence; or
- (e) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
- (f) is removed from office under subsection (2).

(4) If a member of the Board is a member constituting the Board for the purposes of any proceedings under Part 5 and the member's term of office expires, or the member resigns, before those proceedings are completed, the member may, for the purpose of continuing and completing those proceedings, continue to act as a member of the Board.

7—Vacancies or defects in appointment of members

An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

8—Remuneration

A member of the Board is entitled to remuneration, allowances and expenses determined by the Governor.

9—Functions of Board

(1) The Board has the following functions:

- (a) to administer the provisions of this Act for the regulation of the practice of social work;
- (b) to establish and maintain the register contemplated by this Act;
- (c) to determine the qualifications and other requirements appropriate for registration under this Act;
- (d) to receive and determine applications for registration of social workers under this Act;
- (e) to hear and make determinations in disciplinary proceedings against a person;
- (f) to carry out other functions assigned to the Board under this Act or by the Minister.

(2) In performing its functions, the Board may consult with authorities that it thinks appropriate.

(3) If—

- (a) a code of conduct or professional standard is endorsed by the Board; or
- (b) guidelines are endorsed by the Board,

the Board must—

- (c) cause a copy of the code, standard or guidelines to be published on the Board's website, together with a statement of the operative date of the code, standard or guidelines (which may not be a date earlier than the date of publication); and
- (d) take reasonable steps to send a copy of the code, standard or guidelines to each social worker to whom it applies; and
- (e) ensure that a copy of the code, standard or guidelines is kept available for public inspection without charge during normal office hours at the principal office of the Registrar,

(although proof of compliance with paragraphs (c), (d) and (e) is not necessary for the purposes of any proceedings that involve an alleged contravention of or failure to comply with a code of conduct or professional standard).

10—Registrar of Board

(1) There will be a Registrar of the Board.

(2) The Registrar will be appointed by the Minister on terms and conditions determined by the Minister.

(3) The Registrar is responsible for—

- (a) managing the staff and resources of the Board; and

- (b) giving effect to the policies and decisions of the Board.

11—Procedures of Board

- (1) Subject to this Act, a quorum of the Board consists of half of the members plus 1.
- 5 (2) A meeting of the Board (other than for the purposes of hearing and determining proceedings under Part 5) will be chaired by the presiding member or, in the presiding member's absence, by the deputy presiding member and, in the absence of both the presiding member and the deputy presiding member, the members present at a meeting of the Board must choose 1 of their number to preside at the meeting.
- (3) The Board must have accurate minutes kept of its meetings.
- 10 (4) A decision carried by a majority of the votes cast by members of the Board at a meeting is a decision of the Board.
- (5) Each member present at a meeting of the Board has 1 vote on any question arising for decision and, except in hearing and determining proceedings under Part 5, the member presiding at the meeting may exercise a casting vote if the votes are equal.
- 15 (6) A conference by telephone or other electronic means between the members of the Board will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—
- (a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and
- 20 (b) each participating member is capable of communicating with every other participating member during the conference.
- (7) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—
- (a) notice of the proposed resolution is given to all members of the Board in accordance with procedures determined by the Board; and
- 25 (b) a majority of the members express concurrence in the proposed resolution by letter, fax, email or other written communication setting out the terms of the resolution.
- (8) However, subsections (6) and (7) do not apply in relation to the hearing and determination of proceedings under Part 5 by the Board as constituted for the purposes of proceedings under that Part.
- 30 (9) Subject to this Act, the Board may determine its own procedures.

12—Conflict of interest under Public Sector (Honesty and Accountability) Act

- 35 A member of the Board will not be taken to have a direct or indirect personal or pecuniary interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with persons registered under this Act generally, or a substantial section of persons registered under this Act.

13—Accounts and audit

- (1) The Board must cause proper accounting records to be kept in relation to its financial affairs, and must have annual statements of account prepared in respect of each financial year.
- 5 (2) The accounts must be audited at least once in every year by an auditor approved by the Auditor-General and appointed by the Board.
- (3) The Auditor-General may at any time audit the accounts of the Board.

14—Annual report

- 10 (1) The Board must, on or before 30 September in each year, deliver to the Minister a report on the administration of this Act and the work of the Board during the financial year ending on the preceding 30 June.
- (2) The report must—
 - (a) include the following information in relation to the relevant financial year:
 - 15 (i) the number of applications for registration received by the Board;
 - (ii) the number of persons who were registered as social workers under this Act;
 - (iii) the number and nature of complaints received by the Board against registered social workers, and the number of registered social workers to which the complaints related;
 - 20 (iv) the number and nature of voluntary undertakings given to the Board by registered social workers;
 - (v) the number of persons prosecuted for offences under this Act and the nature of such offences;
 - 25 (vi) the number of proceedings before the Board under Part 5 and the outcome of such proceedings;
 - (vii) any other information prescribed by regulations; and
 - (b) incorporate the audited accounts of the Board for the relevant financial year.
- (3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

Part 3—Registration

15—Requirement to be registered

- (1) A person must not be engaged as a social worker unless the person is registered as a social worker under this Act.
Maximum penalty: \$5 000.
- 35 (2) A person must not engage another person as a social worker unless the other person is registered as a social worker under this Act.
Maximum penalty: \$10 000.

16—Eligibility for registration

Subject to this Act, a person is eligible for registration as a social worker if the person—

- (a) has qualifications—
 - (i) prescribed by regulation; or
 - (ii) determined by the Board to be appropriate for registration; and
- (b) has a working with children check; and
- (c) is a fit and proper person to be registered as a social worker; and
- (d) has met any other requirements for registration—
 - (i) prescribed by regulation; or
 - (ii) determined by the Board to be necessary for registration.

17—Application for registration

- (1) An application for registration as a social worker must—
 - (a) be made to the Board in the manner and form prescribed by the Board; and
 - (b) be accompanied by the fee prescribed by regulation.
- (2) An application for registration must—
 - (a) consent to the conduct by the Board of a criminal record check relating to the applicant; and
 - (b) if the Board so requires for the purpose of determining whether the applicant's capacity to practise as a social worker is seriously impaired by an illness or disability affecting the applicant's behaviour or competence as a social worker—
 - (i) submit to a medical examination by a medical practitioner selected by the applicant from a panel of medical practitioners nominated by the Board; and
 - (ii) provide, or authorise the medical practitioner to provide, a report on the results of the medical examination to the Board; and
 - (c) provide the Board with any information required by the Board for the purposes of determining the application, verified, if the Board so requires, by statutory declaration.
- (3) An applicant for registration must pay, in addition to the prescribed fee, an amount specified by the Board, being an amount payable by the Board for the conduct by the Board of a criminal record check relating to the applicant.
- (4) An application for renewal of registration must be made not less than 1 month before the expiry of the registration.

18—Grant of registration

- (1) The Board may, on application under this Part, grant registration to the applicant if satisfied that the applicant is eligible for registration as a social worker.

- (2) The Board is not required, if it has assessed a person's qualifications to be appropriate for registration, to assess the person's qualifications again on a subsequent application by the person.

19—Conditions of registration

- (1) The Board may impose conditions of registration which may include (but are not limited to) the following:

- (a) conditions requiring the person to complete a course or acquire experience as a social worker;
- (b) conditions restricting the services the person may provide;
- (c) conditions requiring the supervision of the person;
- (d) conditions limiting the period for which the registration remains in force;
- (e) conditions requiring the provision of further evidence as to competence.

- (2) Without limiting the effect of subsection (1), the Board must—

- (a) make it a condition of every registration that for the duration of the registration period the person complete a minimum number of hours (as prescribed by regulation or determined by the Board) of further education and training that the Board has approved to be of an appropriate standard or that has been prescribed by regulation; and
- (b) make it a condition of every registration that—
 - (i) if the person is charged with or convicted of an offence of a kind specified in the condition (which may include offences under the law of South Australia or elsewhere), the person must, within 14 days, give written notice of the charge or conviction to the Board containing the details specified in the condition; and
 - (ii) if the person is dismissed from employment as a social worker in response to allegations of unprofessional conduct, or resigns from employment as a social worker following allegations of unprofessional conduct, the person must, within 14 days, give written notice of the person's dismissal or resignation to the Board containing the details specified in the condition; and
 - (iii) if the person is dismissed from any employment in response to allegations of improper conduct relating to a child, or resigns from employment following allegations of improper conduct relating to a child, the person must, within 14 days, give written notice of the person's dismissal or resignation to the Board containing the details specified in the condition.

- (3) The Board may, at any time, audit a registered social worker to determine the registered social worker's compliance with the condition set out in subsection (2)(a).

- (4) The Board may, on application or by written notice, vary or revoke a condition, or impose a condition, of a person's registration as a social worker.

20—Term of registration

- (1) Subject to this Act, registration as a social worker remains in force—
- (a) until 31 January in the third year following the year in which the registration was granted or last renewed; or
 - (b) if the registration is subject to a condition limiting the period for which it remains in force to a lesser period—for that period.
- (2) The Board may, if it thinks fit, on granting registration, determine that the term of the registration commences from the end of a preceding term of registration.

21—Requirement for provision of information

- (1) The Board or the Registrar may, at any time, require a registered social worker or the employer or a former employer of a registered social worker to provide information relating to the social worker or the social worker's employment.
- (2) A person who fails to comply with a requirement under this section is guilty of an offence.
- Maximum penalty: \$1 250.
Expiation fee: \$160.

22—Register

- (1) The Board must maintain—
- (a) a register of social workers registered under this Part (the **register**); and
 - (b) a record of persons who have been removed from the register referred to in paragraph (a) and who have not been reinstated to that register (the **record of deregistered social workers**).
- (2) The register must include the following in relation to each registered person:
- (a) the person's full name, personal address and business address (if any);
 - (b) the qualifications for registration held by the person;
 - (c) details of any condition of the person's registration;
 - (d) the expiry date of the person's registration;
 - (e) the person's registration number;
 - (f) any other information prescribed by regulations,
- and may include other information as the Board thinks fit.
- (3) A registered social worker must, within 28 days after changing their name or nominated contact address, inform the Registrar in writing of the change.
- Maximum penalty: \$1 250.
Expiation fee: \$160.
- (4) The record of deregistered social workers—
- (a) must not include any person who is deceased; and
 - (b) must include, in relation to each person who has been removed from the register, a statement of—

- (i) the reason for removal of the person; and
- (ii) the date of removal; and
- (iii) if the removal was consequent on suspension—the duration of the suspension; and
- (iv) if the person has been disqualified from being registered on the register—the duration of the disqualification; and

(c) must have deleted from it all information relating to any person who is reinstated on the register.

(5) The Registrar is responsible to the Board for the form and maintenance of the register and the record of deregistered social workers.

(6) The Registrar must correct an entry in the register or the record of deregistered social workers that is not, or has ceased to be, correct.

(7) The register and the record of deregistered social workers must be kept available for inspection by any person during ordinary office hours at the office of the Registrar and may be made available to the public by electronic means.

(8) A person may, on payment of the prescribed fee, obtain a copy of any part of the register or the record of deregistered social workers.

(9) Despite subsection (7) and (8), a nominated contact address is not to be disclosed except to a person who satisfies the Registrar that the person has an adequate reason for wanting the nominated contact address.

(10) A certificate stating that a person was, or was not, listed on the register or the record of deregistered social workers under this Act at a particular date, or during a particular period, and purporting to be signed by the Registrar will, in the absence of proof to the contrary, be accepted in legal proceedings as proof of the registration or deregistration, or of the fact that the person was never so registered, on the date, or during the period, stated in the certificate.

23—Certificates of registration

(1) The Registrar must, on the registration of a person as a social worker, issue to the person a certificate of registration in a form approved by the Board that includes the following information:

- (a) the person's full name and registration number;
- (b) the conditions (if any) of the registration;
- (c) the expiry date of the registration;
- (d) any other information the Board thinks appropriate.

(2) A registered social worker must, within 28 days after—

- (a) a condition of the person's registration has been varied or revoked; or
- (b) any other change in the information recorded in the certificate of registration has occurred; or
- (c) the registration has been suspended or cancelled,

return the certificate of registration to the Registrar.

Maximum penalty: \$1 250.

Expiation fee: \$160.

(3) On receipt of a certificate of registration under subsection (2), the Registrar must—

(a) if the person's registration has been cancelled, destroy the certificate; or

(b) if the person's registration has been suspended, retain the certificate until the end of the period of suspension, and then return the certificate to the person; or

(c) in any other case, unless the Registrar determines otherwise, alter the certificate or issue a new certificate.

Part 4—Offences

24—Holding out as being registered

(1) A person must not hold themselves out as a social worker or permit another person to do so, unless the person is registered under this Act.

Maximum penalty: \$10 000.

(2) A person must not hold out another as a social worker unless the other person is registered under this Act.

Maximum penalty: \$10 000.

25—Holding out concerning a registration subject to conditions

A person whose registration is subject to a condition or conditions must not hold themselves out as having a registration that is not subject to a condition, or permit another person to do so.

Maximum penalty: \$10 000.

26—Offence to contravene conditions of registration

(1) A person who contravenes, or fails to comply with, a condition imposed under this Act on the person's registration is guilty of an offence.

Maximum penalty: \$10 000.

(2) A person who contravenes a condition of the person's registration that requires the Board to be notified of a matter or imposes a restriction on the practice of social work by the person is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

27—Procurement of registration by fraud

A person who, by fraud or any other dishonest means, procures (whether for themselves or for another person) registration, or reinstatement of registration, under this Act is guilty of an offence.

Maximum penalty: \$10 000.

28—Social worker to produce certificate of registration

- (1) A registered social worker must, on request by a prescribed person for a purpose related to the provision of prescribed social work services by the social worker, produce the person's certificate of registration.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) In this section—

prescribed person means—

- (a) the Registrar, or a person authorised by the Registrar; or
- (b) a person to whom the social worker has provided, or is providing, social work services; or
- (c) a service provider who has provided, or who is proposing to provide, social work services through the social worker; or
- (d) any other person brought within the ambit of this definition by the regulations.

Part 5—Investigations and proceedings

29—Cause for disciplinary action

- (1) There is proper cause for disciplinary action against a registered social worker if—

- (a) the person's registration was improperly obtained; or
- (b) the person is guilty of unprofessional conduct; or
- (c) the person is for any reason no longer a fit and proper person to be registered as a social worker under this Act.

- (2) In this section, a reference to a **registered social worker** includes a reference to a person who is not but who was, at the relevant time, registered under this Act.

30—Employer to report dismissal etc for unprofessional conduct

- (1) If the employer of a registered social worker dismisses the social worker in response to allegations of unprofessional conduct, or accepts the resignation of the social worker following allegations of unprofessional conduct, the employer must, within 7 days, submit a written report to the Board—

- (a) describing the circumstances of the dismissal or resignation; and
- (b) containing all other prescribed information.

Maximum penalty: \$5 000.

- (2) A person incurs no liability by making a report purportedly in compliance with this section in good faith.

31—Registrar may conduct investigation

- (1) The Registrar, or a person authorised by the Registrar, may, for the purpose of determining whether there is a basis for the Registrar to make a complaint to the Board under this Part, require a person—
- 5 (a) to answer questions and to be present or attend a specified place and time for that purpose; and
- (b) to provide information or to produce material for inspection.
- (2) The Registrar or other person acting under this section may retain any material produced under this section for such reasonable period as the Registrar or other person
- 10 thinks fit, and make copies of the material, or any of its contents.
- (3) A person who fails, without reasonable excuse, to comply with a requirement under this section is guilty of an offence.
- Maximum penalty: \$5 000.
- (4) This section does not limit or affect a power of investigation or inquiry that exists
- 15 apart from this section.

32—Inquiries and disciplinary action

- (1) A complaint setting out matters that are alleged to constitute grounds for disciplinary action against a registered social worker may be given to the Board (in a manner and form approved by the Board) by—
- 20 (a) the Registrar; or
- (b) the Minister; or
- (c) the employer of the person; or
- (d) a person who is aggrieved by the conduct of the person or, if the person aggrieved is a child or is suffering from a mental or physical incapacity, by a
- 25 person acting on the aggrieved person's behalf.
- (2) The administrative processes established by the Board for handling complaints received against a social worker (the **respondent**) must be designed—
- (a) to be fair to both the aggrieved person and the respondent; and
- (b) to keep both the aggrieved person and the respondent properly informed
- 30 about the steps taken by the Board in response to the complaint; and
- (c) to provide, if appropriate, opportunities for the clarification of any misapprehension or misunderstanding between the aggrieved person and the respondent; and
- (d) to keep both the aggrieved person and the respondent properly informed
- 35 about the outcome of the processes; and
- (e) to take into account the needs of particular classes of persons who may otherwise suffer disadvantage in the conduct of those processes.
- (3) If a complaint is made against a person under this section, the Board must, subject to subsection (4), inquire into the subject matter of the complaint.

(4) If a complaint has been made against a person under this section by or on behalf of an aggrieved person—

(a) the Board need not inquire into the subject matter of the complaint if the Board determines that the complaint is frivolous or vexatious; and

(b) the Board may, if satisfied that the complaint arose from a misapprehension on the part of the complainant or from a misunderstanding between the parties, before proceeding further with the hearing of the complaint, require the parties to attend before the Registrar in order to clarify the misapprehension or misunderstanding.

(5) If, after conducting an inquiry under this section, the Board is satisfied on the balance of probabilities that there is proper cause for disciplinary action against the respondent, the Board may, by order, do 1 or more of the following:

(a) censure the respondent;

(b) require the respondent to pay to the Board a fine not exceeding \$2 500;

(c) if the respondent is a person who is registered as a social worker under this Act—

(i) impose conditions on the social worker's registration; or

(ii) suspend the social worker's registration; or

(iii) cancel the social worker's registration;

(d) disqualify the respondent from being registered under this Act;

(6) The Board may—

(a) stipulate that an order under subsection (5) is to apply—

(i) with immediate effect; or

(ii) with effect at a future specified date, in which case the Board may impose conditions as to the conduct of the person until that time; and

(b) stipulate that a disqualification or prohibition under subsection (5) is to apply—

(i) permanently; or

(ii) for a specified period; or

(iii) until the fulfilment of specified conditions; or

(iv) until further order.

(7) If—

(a) a person has been found guilty of an offence; and

(b) the circumstances of the offence form, in whole or in part, the subject matter of the complaint,

the person is not liable to a fine under this section in respect of conduct giving rise to the offence.

(8) The Board may—

(a) fix a period within which a fine imposed under this section must be paid; and

(b) on application by a person liable to pay a fine imposed under this section, extend the period within which the fine must be paid.

(9) A fine imposed under this section is recoverable by the Board as a debt.

(10) The Board may, without further notice, remove from the register a person who fails to pay a fine imposed under this section.

33—Notification by Registrar of inquiry and outcome

The Registrar must, as soon as practicable, give notice of the commencement of an inquiry under this Part, and then of the outcome of the inquiry, to the employer of the person if the person to whom the inquiry relates is employed as a social worker.

34—Variation or revocation of conditions imposed by Board

(1) The Board may, at any time, on application by a registered social worker, vary or revoke a condition imposed by the Board in relation to the person's registration under this Act.

(2) The Registrar and the Minister are entitled to appear and be heard on an application under this section.

35—Constitution of Board for purpose of proceedings

(1) The Board will, for the purpose of hearing and determining proceedings under this Part, be constituted of 3 members selected by the presiding member (or, in the absence of the presiding member, the deputy presiding member).

(2) The Governor may appoint a person as a special member of the Board under this Part (and a person so appointed may (but need not) act as a member of the Board for the purpose of any proceedings under this Part).

(3) The presiding member of the Board (or, in the absence of the presiding member, the deputy presiding member) will appoint 1 of the members of the Board, as so constituted for the purposes of any particular proceedings, to preside over those proceedings.

(4) If a member of the Board as constituted under this section (other than the member presiding over the proceedings) dies or is for any other reason unable to continue with the proceedings, the Board constituted of the remaining members may, if the member presiding over the proceedings so determines, continue and complete the proceedings.

(5) Any questions of law or procedure arising before the Board will be determined by the member presiding over the proceedings and any other questions by unanimous or majority decision of the members.

(6) The Board constituted of the member presiding over the proceedings may, sitting alone—

(a) deal with—

(i) preliminary, interlocutory or procedural matters (including, for example, whether a complaint is frivolous or vexatious, or may have arisen from a misapprehension); or

(ii) questions of costs; or

(iii) questions of law; or

(b) enter consent orders,

and may, for that purpose or as a consequence, while sitting alone, make any determination or order (including a final order) that the member considers appropriate.

36—Principles governing proceedings

(1) In proceedings before the Board under this Act, the Board—

(a) is not bound by the rules of evidence and may inform itself on any matter as it thinks fit; and

(b) must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

(2) In proceedings before the Board under this Act, the Board must keep the parties to the proceedings properly informed as to the progress and outcome of the proceedings.

37—Representation at proceedings before Board

A party to proceedings before the Board (including an applicant for registration or reinstatement of registration) is entitled to be represented at the hearing of those proceedings.

38—Powers of Board in relation to witnesses etc

(1) For the purposes of proceedings before the Board (including an application for registration or reinstatement of registration), the Board may—

(a) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the attendance before the Board of a person whom the Board thinks fit to call before it; or

(b) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the production of relevant documents or records and, in the case of a document or record that is not in the English language—

(i) a written translation of the document or record into English; and

(ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record; or

(c) inspect documents or records produced before it, and retain them for such reasonable period as it thinks fit, and make copies of the documents or records or their contents; or

(d) require a person to make an oath or affirmation (which may be administered by a member of the Board) to answer truthfully questions put by a member of the Board or a person appearing before the Board; or

(e) require a person appearing before the Board (whether summoned to appear or not) to answer questions put by a member of the Board or by a person appearing before the Board.

(2) On the receipt of an application for the issue of a summons under this section, a member of the Board or the Registrar may, without referring the matter to the Board, issue a summons on behalf of the Board.

(3) A person who—

(a) fails without reasonable excuse to comply with a summons issued to attend, or to produce documents or records before the Board; or

(b) having been served with a summons to produce—

(i) a written translation of the document or record into English; and

(ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record,

fails, without reasonable excuse, to comply with the summons; or

(c) misbehaves before the Board, wilfully insults the Board or 1 or more of the members in the exercise of the member's official duties, or wilfully interrupts the proceedings of the Board; or

(d) refuses to be sworn or to affirm, or refuses or fails to answer truthfully a relevant question when required to do so by the Board,

is guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for 6 months.

(4) A person who appears as a witness before the Board has the same protection as a witness in proceedings before the Supreme Court.

39—Provisions as to proceedings before Board

(1) Subject to this Act, the Board must give to all of the parties to proceedings before the Board under this Part at least 14 days written notice of the time and place at which it intends to conduct the proceedings, and must afford to the parties a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses, and to make submissions to the Board.

(2) However, the Board may, if it thinks special reasons exist for doing so, give a lesser period of written notice under subsection (1).

(3) The requirement to give written notice under subsection (1) does not extend to adjournments.

(4) If a party to whom notice has been given under subsection (1) does not attend at the time and place fixed by the notice, the Board may proceed to hear and determine the matter in the absence of that party.

(5) The Board may, if of the opinion that it is desirable to do so in the public interest—

(a) suspend the registration of the person the subject of the proceedings; or

(b) impose conditions on the person's registration restricting the person's right to provide social work services,

pending hearing and determination of the proceedings.

(6) A person who is aggrieved by the conduct of a person that is the subject-matter of proceedings before the Board under this Part is, subject to any direction of the Board to the contrary, entitled to be present at the hearing of the proceedings.

(7) In the course of proceedings before the Board under this Part, the Board may—

- (a) receive in evidence a transcript of evidence taken in proceedings before a court, tribunal or other body constituted under the law of South Australia or of any other State or a Territory of Australia or of another country, and draw any conclusions of fact from the evidence that it considers proper; and
- (b) adopt, as in its discretion it considers proper, any findings, decision, judgment, or reasons for judgment, of any such court, tribunal or body that may be relevant to the proceedings.

(8) The Board must conduct proceedings under this Part as expeditiously as possible (and must, if the Board has taken action under subsection (5), hear and determine the proceedings as a matter of urgency).

40—Costs

- (1) The Board may award such costs against a party to proceedings before it as the Board considers just and reasonable.
- (2) A party who is dissatisfied with the amount of the costs awarded by the Board may request a Master of the District Court to tax the costs and, after taxing the costs, the Master may confirm or vary the amount of the costs awarded by the Board.
- (3) Costs awarded by the Board under this section may be recovered as a debt.

Part 6—Appeals

41—Right of appeal to South Australian Civil and Administrative Tribunal

- (1) An appeal lies to the South Australian Civil and Administrative Tribunal (the *Tribunal*) against—
 - (a) a refusal by the Board to register, or reinstate the registration of, a person under this Act; or
 - (b) the imposition by the Board of conditions on a person's registration under this Act; or
 - (c) a decision made by the Board in proceedings under Part 5.
- (2) An appeal under subsection (1)(c) against a decision may be instituted—
 - (a) in the case of a decision made in disciplinary proceedings—by the complainant or the respondent in the proceedings in which the decision was made; or
 - (b) in the case of a decision under section 34—by the applicant or a person entitled to be heard in the proceedings.
- (3) An appeal must be instituted within 28 days of the date of the decision appealed against.

42—Operation of order may be suspended

- (1) If an order has been made by the Board, and the Board or the Tribunal is satisfied that an appeal against the order has been instituted, or is intended, it may suspend the operation of the order until the determination of the appeal.

- (2) If the Board has suspended the operation of an order under subsection (1), the Board may terminate the suspension, and if the Tribunal has done so, the Tribunal may terminate the suspension.

43—Variation or revocation of conditions imposed by Tribunal

- (1) The Tribunal may, at any time, on application by a person who is registered under this Act, vary or revoke a condition imposed by the Tribunal in relation to the person's registration.
- (2) The Board and the Minister are entitled to appear and be heard on an application under this section.

Part 7—Miscellaneous

44—Exemptions

- (1) Subject to this section, the Minister may, by notice in the Gazette—
- (a) exempt a person or class of persons, subject to such conditions as the Minister thinks fit and specifies in the notice, from specified provisions of this Act; or
- (b) vary or revoke an exemption, or a condition of an exemption, under this section or impose a further condition.
- (2) The Minister must consult with the Board before making a notice under subsection (1).
- (3) A person who contravenes a condition of an exemption is guilty of an offence.
- Maximum penalty: \$10 000.

45—Statutory declarations

If a person is required under this Act to provide information to the Board, the Board may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been verified in accordance with the requirements of the Board.

46—False or misleading statement

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information kept or provided under this Act.

Maximum penalty: \$5 000.

47—Self-incrimination

If a person is required to provide information or to produce a document or record under this Act and the information, document or record would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document or record but the information, document or record so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than an offence against this or any other Act relating to the provision of false or misleading information.

48—Punishment of conduct that constitutes an offence

If conduct constitutes an offence and is also a ground for disciplinary action under this Act, the taking of disciplinary action under this Act is not a bar to conviction and punishment for the offence, nor is conviction and punishment for the offence a bar to disciplinary action under this Act.

49—Payment of fines

A fine imposed for an offence against this Act must be paid to the Board.

50—Ministerial review of decisions relating to courses

(1) If the Board—

(a) refuses to approve a course of education or training for the purposes of this Act; or

(b) revokes an approval of a course of education or training under this Act, the provider of the course may apply to the Minister for a review of that decision.

(2) The Minister may determine the application as the Minister thinks fit and, if the Minister finds in favour of the applicant, grant or preserve the approval (as appropriate).

51—Confidentiality

(1) A person engaged or formerly engaged in the administration of this Act must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

(a) as required or authorised by or under this Act or any other Act or law; or

(b) with the consent of the person to whom the information relates; or

(c) in connection with the administration of this Act; or

(d) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

Maximum penalty: \$5 000.

(2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.

(3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—

(a) the person to whom the information was disclosed; or

(b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$5 000.

52—Service of documents

- (1) A notice or document required or authorised to be given or sent to, or served on, a person for the purposes of this Act may—
- (a) be given to the person personally; or
 - (b) be posted in an envelope addressed to the person—
 - (i) at the person's last known address; or
 - (ii) at the person's address for service; or
 - (c) be transmitted by fax or email to a fax number or email address provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).
- (2) The address for service of a person registered under this Act is the address for the person that appears on the register under this Act.

53—Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
- (a) prescribe, or empower the Board to fix—
 - (i) fees or charges for the purposes of this Act; and
 - (ii) fees or charges for services provided by the Board in the exercise of its functions under this Act,and may provide for the recovery of a fee or charge so prescribed; and
 - (b) exempt any person or class of persons from the obligation to pay a fee or charge so prescribed; and
 - (c) regulate, or otherwise make provision with respect to, the education and training of social workers for the purposes of this Act, including by making provision with respect to the approval of courses that may lead to registration; and
 - (d) make any provision with respect to the keeping of the register under this Act; and
 - (e) make any provision with respect to certificates of registration under this Act; and
 - (f) prescribe penalties, not exceeding \$2 500, for breach of, or non-compliance with, a regulation.
- (3) The regulations may—
- (a) refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed body or person, either as in force at the time the regulations are made or as in force from time to time; and
 - (b) be of general or limited application; and

- 5
- (c) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
- (d) provide that a specified provision of this Act does not apply, or applies with prescribed variations, to any person, circumstance or situation (or person, circumstance or situation of a prescribed class) specified by the regulations, subject to any condition to which the regulations are expressed to be subject; and
- 10
- (e) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Board or another prescribed authority.
- (4) If a code, standard or other document is referred to or incorporated in the regulations—
- 15
- (a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during normal office hours, at an office or offices specified in the regulations; and
- (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

Draft for the Hon Tammy Franks MLC

1.12.2020 (2)

South Australia

Social Workers Registration Bill 2020

A BILL FOR

An Act to make provision for the registration of social workers, to establish the Social Workers Registration Board and for other purposes.

Contents**Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Primary objects
- 4 Interpretation

Part 2—Social Workers Registration Board of South Australia

- 5 Establishment of Board
- 6 Constitution of Board
- 7 Terms and conditions of membership
- 8 Vacancies or defects in appointment of members
- 9 Remuneration
- 10 Functions of Board
- 11 Registrar of Board
- 12 Other staff of Board
- 13 Procedures of Board
- 14 Conflict of interest under Public Sector (Honesty and Accountability) Act
- 15 Accounts and audit
- 16 Annual report

Part 3—Social work services, scopes of practice and prescribed qualifications

- 17 Social work services
- 18 Board to determine scopes of practice for social work profession
- 19 Specified qualifications
- 20 Provisions relating to this Part
- 21 Parliamentary scrutiny

Part 4—Registration

- 22 Requirement to be registered
- 23 Eligibility for registration
- 24 Non-practising registration
- 25 Application for registration
- 26 Grant of registration
- 27 Scopes of Practice

- 28 Conditions of registration
- 29 Term of registration
- 30 Requirement for provision of information
- 31 Register
- 32 Certificates of registration

Part 5—Fit and proper person

- 33 Fit and proper person

Part 6—Offences

- 34 Holding out as being registered
- 35 Holding out concerning a registration subject to conditions
- 36 Offence to contravene conditions of registration
- 37 Procurement of registration by fraud
- 38 Social worker to produce certificate of registration

Part 7—Investigations and proceedings

- 39 Cause for disciplinary action
- 40 Suspension of registration if working with children check not current etc
- 41 Employer to report dismissal etc for unprofessional conduct
- 42 Registrar may conduct investigation
- 43 Inquiries and disciplinary action
- 44 Disciplinary Advisory Panel
- 45 Notification by Registrar of inquiry and outcome
- 46 Variation or revocation of conditions imposed by Board
- 47 Constitution of Board for purpose of proceedings
- 48 Principles governing proceedings
- 49 Representation at proceedings before Board
- 50 Powers of Board in relation to witnesses etc
- 51 Provisions as to proceedings before Board
- 52 Costs

Part 8—Appeals

- 53 Right of appeal to South Australian Civil and Administrative Tribunal
- 54 Operation of order may be suspended
- 55 Variation or revocation of conditions imposed by Tribunal

Part 9—Miscellaneous

- 56 Exemptions
 - 57 Statutory declarations
 - 58 False or misleading statement
 - 59 Self-incrimination
 - 60 Punishment of conduct that constitutes an offence
 - 61 Payment of fines
 - 62 Ministerial review of decisions relating to courses
 - 63 Confidentiality
 - 64 Service of documents
 - 65 Regulations and fee notices
 - 66 Review
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Social Workers Registration Act 2020*.

2—Commencement

5 This Act comes into operation on a day to be fixed by proclamation.

3—Primary objects

The primary objects of this Act are—

- (a) to establish and maintain a registration system for social workers; and
- 10 (b) to safeguard the public interest by ensuring that only suitably trained and qualified persons are able to practise as social workers; and
- (c) to encourage the maintenance of high professional standards of both competence and conduct by registered social workers; and
- (d) to ensure that registered social workers are held accountable professionally for the conduct of their practice.

15 4—Interpretation

- (1) In this Act, unless the contrary intention appears—

Board means the Social Workers Registration Board of South Australia;

condition includes a limitation;

fit and proper person—see section 33;

20 **legal practitioner** has the same meaning as within the *Legal Practitioners Act 1981*;

register means the register of social workers established and maintained under section 31;

registered social worker means a person registered as a social worker under Part 4;

25 **Registrar** means the Registrar of the Board appointed under section 11, or a person acting in the position of the Registrar;

respondent—see section 43;

scope of practice, in relation to the social work profession, means 1 or more social work services performed by the social work profession that are described as a scope of practice by the Board under section 18;

30 **unprofessional conduct** means—

- (a) a contravention of or failure to comply with—
 - (i) this Act; or
 - (ii) a condition of registration as a social worker under this Act; or

(iii) a code of conduct or professional standard prepared or endorsed by the Board under this Act; or

(b) incompetence; or

(c) disgraceful or improper conduct; or

(d) conduct of a kind determined by the Board to be unprofessional conduct;

working with children check means a working with children check under the *Child Safety (Prohibited Persons) Act 2016*.

(2) For the purposes of this Act—

(a) **social work** is a practice-based profession and an academic discipline—

(i) that promotes social change and development, social cohesion and the empowerment and liberation of people; and

(ii) for which principles of social justice, human rights, collective responsibility and respect for diversities are central; and

(iii) that is underpinned by theories of social work, social sciences, humanities and indigenous knowledge; and

(iv) that engages people and structures to address life challenges and enhance wellbeing; and

(b) **social work services** has the meaning determined by the Board under section 17.

(3) A reference in this Act—

(a) to **unprofessional conduct** extends to—

(i) unprofessional conduct committed before the commencement of this Act; and

(ii) unprofessional conduct committed within or outside South Australia or the Commonwealth; and

(b) to **engaging in conduct** includes a reference to failing or refusing to engage in conduct.

(4) A determination of the Board for the purposes of paragraph (d) of the definition of **unprofessional conduct** in subsection (1)—

(a) must be published in the Gazette; and

(b) may be varied, revoked or substituted.

Part 2—Social Workers Registration Board of South Australia

5—Establishment of Board

(1) The *Social Workers Registration Board of South Australia* is established.

(2) The Board—

(a) is a body corporate; and

(b) has perpetual succession and a common seal; and

- (c) is capable of suing and being sued in its corporate name; and
- (d) has all the powers of a natural person that are capable of being exercised by a body corporate; and
- (e) has the functions and powers assigned or conferred on the Board under this Act.

- (3) If a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the document was duly executed by the Board.

6—Constitution of Board

- (1) The Board consists of 7 members appointed by the Governor, of whom—
- (a) 4 must be persons who have extensive experience in social work; and
 - (b) 1 must be a legal practitioner; and
 - (c) 1 must be a representative of the general community.
- (2) The Minister—
- (a) must, after consultation with the Board, appoint 1 of the members to preside at meetings of the Board (the **presiding member**); and
 - (b) must, after consultation with the Board, appoint 1 of the members to preside at meetings of the Board in the absence of the presiding member (the **deputy presiding member**); and
 - (c) may appoint a person to be a proxy of any member (other than the presiding member) and a person so appointed may act as a member of the Board in the absence of the member.
- (3) The requirements of qualification and nomination (if applicable) made by this section in relation to the appointment of a member extend to the appointment of a proxy of that member.

7—Terms and conditions of membership

- (1) A member of the Board will be appointed on conditions determined by the Governor and for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, is eligible for reappointment.
- (2) The Governor may remove a member of the Board from office for—
- (a) breach of, or non-compliance with, a condition of appointment; or
 - (b) misconduct; or
 - (c) failure or incapacity to carry out official duties satisfactorily.
- (3) The office of a member of the Board becomes vacant if the member—
- (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or is sentenced to imprisonment for an offence; or

(e) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or

(f) is removed from office under subsection (2).

(4) If a member of the Board is a member constituting the Board for the purposes of any proceedings under Part 7 and the member's term of office expires, or the member resigns, before those proceedings are completed, the member may, for the purpose of continuing and completing those proceedings, continue to act as a member of the Board.

8—Vacancies or defects in appointment of members

An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

9—Remuneration

A member of the Board is entitled to remuneration, allowances and expenses determined by the Governor.

10—Functions of Board

(1) The Board has the following functions:

- (a) to administer the provisions of this Act for the regulation of the practice of social work;
- (b) to provide a definition of **social work services** in accordance with section 17;
- (c) to establish and maintain the register contemplated by this Act;
- (d) to prepare or endorse codes of conduct, professional standards and ethical guidelines for registered social workers;
- (e) to determine the qualifications and other requirements appropriate for registration under this Act;
- (f) to receive and determine applications for registration of social workers under this Act;
- (g) to hear and make determinations in disciplinary proceedings against a person;
- (h) to carry out other functions assigned to the Board under this Act or by the Minister.

(2) In performing its functions, the Board may consult with authorities that it thinks appropriate.

(3) If a code of conduct, professional standard or set of ethical guidelines is prepared or endorsed by the Board, the Board must—

- (a) cause a copy of the code, standard or guidelines to be published on the Board's website, together with a statement of the operative date of the code, standard or guidelines (which may not be a date earlier than the date of publication); and
- (b) take reasonable steps to send a copy of the code, standard or set of guidelines to each social worker to whom it applies; and

- (c) ensure that a copy of the code, standard or set of guidelines is kept available for public inspection without charge during normal office hours at the principal office of the Registrar,

(although proof of compliance with paragraphs paragraph (a), (b) or (c) is not necessary for the purposes of any proceedings that involve an alleged contravention of or failure to comply with a code of conduct or professional standard).

11—Registrar of Board

- (1) There will be a Registrar of the Board.
- (2) The Registrar will be appointed by the Minister on terms and conditions determined by the Minister.
- (3) The Registrar is responsible for—
 - (a) managing the staff and resources of the Board; and
 - (b) giving effect to the policies and decisions of the Board.

12—Other staff of Board

- (1) There will be such other staff of the Board as the Board thinks necessary for the proper performance of its functions.
- (2) An employee of the Board is not a public service employee.
- (3) The Board may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services of staff of that administrative unit.

13—Procedures of Board

- (1) Subject to this Act, a quorum of the Board consists of half of the members plus 1.
- (2) A meeting of the Board (other than for the purposes of hearing and determining proceedings under Part 7) will be chaired by the presiding member or, in the presiding member's absence, by the deputy presiding member and, in the absence of both the presiding member and the deputy presiding member, the members present at a meeting of the Board must choose 1 of their number to preside at the meeting.
- (3) The Board must have accurate minutes kept of its meetings.
- (4) A decision carried by a majority of the votes cast by members of the Board at a meeting is a decision of the Board.
- (5) Each member present at a meeting of the Board has 1 vote on any question arising for decision and, except in hearing and determining proceedings under Part 7, the member presiding at the meeting may exercise a casting vote if the votes are equal.
- (6) A conference by telephone or other electronic means between the members of the Board will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.

(7) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—

(a) notice of the proposed resolution is given to all members of the Board in accordance with procedures determined by the Board; and

(b) a majority of the members express concurrence in the proposed resolution by letter, fax, email or other written communication setting out the terms of the resolution.

(8) However, subsections (6) and (7) do not apply in relation to the hearing and determination of proceedings under Part 7 by the Board as constituted for the purposes of proceedings under that Part.

(9) Subject to this Act, the Board may determine its own procedures.

14—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Board will not be taken to have a direct or indirect personal or pecuniary interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with persons registered under this Act generally, or a substantial section of persons registered under this Act.

15—Accounts and audit

(1) The Board must cause proper accounting records to be kept in relation to its financial affairs, and must have annual statements of account prepared in respect of each financial year.

(2) The accounts must be audited at least once in every year by an auditor approved by the Auditor-General and appointed by the Board.

(3) The Auditor-General may at any time audit the accounts of the Board.

16—Annual report

(1) The Board must, on or before 30 September in each year, deliver to the Minister a report on the administration of this Act and the work of the Board during the financial year ending on the preceding 30 June.

(2) The report must—

(a) include the following information in relation to the relevant financial year:

(i) the number of applications for registration received by the Board;

(ii) the number of persons who were registered as social workers under this Act;

(iii) the number and nature of complaints received by the Board against registered social workers, and the number of registered social workers to which the complaints related;

(iv) the number and nature of voluntary undertakings given to the Board by registered social workers;

(v) the number of persons prosecuted for offences under this Act and the nature of such offences;

- (vi) the number of proceedings before the Board under Part 7 and the outcome of such proceedings;
 - (vii) any other information prescribed by regulations; and
 - (b) incorporate the audited accounts of the Board for the relevant financial year.
- 5 (3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

Part 3—Social work services, scopes of practice and prescribed qualifications

17—Social work services

- 10 (1) The Board must, by notice in the Gazette, specify the meaning of the term **social work services** for the purposes of this Act.
- (2) The Board may, at any time, vary, revoke or substitute a notice under subsection (1).
- (3) A notice may not be made, varied or revoked under this section unless there has been consultation with each prescribed body on the proposal to make, vary or revoke the notice.
- 15

18—Board to determine scopes of practice for social work profession

- (1) The Board must, by notice in the Gazette, describe the social work services that are performed by the social work profession in 1 or more scopes of practice.
- 20 (2) A scope of practice and the services described in it may be described as the Board thinks fit, including in 1 or more of the following ways:
- (a) by reference to a name or form of words that is commonly understood by persons who work in the social work services sector;
 - (b) by reference to an area of social science or learning;
 - (c) by reference to tasks commonly performed;

25 (d) by reference to individual, interpersonal, or community needs to be alleviated.
- (3) The Board must, when developing scopes of practice for the purposes of this section, have regard to—
- (a) the *Practice Standards 2013* (or its successor), published by the Australian Association of Social Workers; and

30 (b) any information about the scope of social work practice published by the Australian Association of Social Workers; and

 - (c) the scheme for registration of social workers established by the *Social Workers Registration Act 2003* of New Zealand; and
 - (d) the development of social work scopes of practice by the Social Workers Registration Board of New Zealand.

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- (4) Scopes of practice developed for the purposes of this section must be reviewed by the Board regularly to ensure their ongoing relevance to the social work profession.

19—Specified qualifications

- (1) The Board must, by notice in the Gazette, specify the qualifications for each scope of practice that the Board describes under section 18.
- (2) When specifying qualifications, the Board must be guided by the following principles:
- (a) a qualification (either on its own or together with 1 or more other specified qualifications) must be necessary to protect the public;
 - (b) the number and types of qualifications specified for a scope of practice must not be so limited as to unnecessarily restrict the registration of persons as social workers;
 - (c) the qualifications (in total) specified for a scope of practice must not impose undue costs on persons seeking to be registered as social workers or the public.

20—Provisions relating to this Part

- (1) The Board may at any time, by notice in the Gazette, vary, revoke or substitute a notice under this Part.
- (2) The variation, revocation or substitution of a notice under section 18 does not affect the registration of a social worker who qualified to practise under the notice before it was varied, revoked or substituted.
- (3) Before the Board publishes a notice under this Part, it must have consulted with the following about its proposal for the contents of the notice:
- (a) persons who the Board considers are able to represent the views of social workers or of classes of social workers;
 - (b) persons who the Board considers are able to represent the views of employers of social workers;
 - (c) organisations—
 - (i) that the Board considers will be affected by the proposal; or
 - (ii) whose members the Board considers will be affected by the proposal.
- (4) The Board must ensure that an up-to-date version of each notice is—
- (a) available on a website maintained by the Board; and
 - (b) available at the Board's office during business hours, so that members of the public may—
 - (i) inspect the notice free of charge; or
 - (ii) obtain a copy of the notice on payment of the prescribed fee.

21—Parliamentary scrutiny

- (1) If a notice is made under this Part, the Minister must, within 14 sitting days, cause the notice to be laid before both Houses of Parliament.
- (2) If either House of Parliament passes a resolution disallowing the notice, the notice ceases to have effect.

- (3) A resolution is not effective for the purposes of subsection (2) unless passed pursuant to a notice of motion given within 14 sitting days (which need not fall within the same session of Parliament) after the day on which the notice was laid before the House.
- (4) If a notice that revokes the whole or part of another notice is disallowed, the notice or part sought to be revoked revives.
- (5) If a notice is disallowed by resolution of either House, notice of the resolution must immediately be published in the Gazette.

Part 4—Registration

22—Requirement to be registered

- (1) A person must not, on or after the prescribed day, undertake social work services unless—
- (a) the person is registered as a social worker under this Act; and
 - (b) the services undertaken by the person are within the terms of their individual scope of practice (authorised under section 27).

Maximum penalty: \$5 000.

- (2) A person must not engage another person to undertake social work services unless the other person is registered as a social worker under this Act.

Maximum penalty: \$10 000.

- (3) In this section—

prescribed day means—

- (a) the day falling 6 months after the day on which this section comes into operation; or
- (b) if a later day is prescribed by regulation for the purposes of this definition—that day.

23—Eligibility for registration

- (1) Subject to this Act, a person is eligible for registration as a social worker if—
- (a) the person has—
 - (i) qualifications—
 - (A) prescribed by regulation; or
 - (B) determined by the Board to be appropriate for registration; or
 - (ii) sufficient practical experience in practising social work; and
 - (b) a working with children check has been conducted in relation to the person within the preceding 5 years; and
 - (c) the person is a fit and proper person to be registered as a social worker; and
 - (d) the person has met any other requirements for registration—
 - (i) prescribed by regulation; or

(ii) determined by the Board to be necessary for registration.

(2) A qualification may not be prescribed for the purposes of subsection (1) unless it is endorsed or accredited by the Australian Association of Social Workers or another prescribed body.

5 (3) A person has sufficient practical experience in practising social work for the purposes of subsection (1) if the person has experience in practising social work that satisfies requirements determined by the Board for the purposes of this subsection.

(4) A determination of the Board under subsection (3)—

(a) must be published in the Gazette and on the Board's website; and

10 (b) must specify—

(i) the amount and type of experience in practising social work a person must have; and

(ii) the period within which the experience must have been obtained, in order to satisfy the requirements; and

15 (c) may be varied, revoked or substituted by a subsequent determination.

24—Non-practising registration

(1) A person is eligible to hold non-practising registration as a social worker under this Act if the person—

(a) holds or has held general registration as a social worker under this Act; and

20 (b) is a suitable person to hold non-practising registration as a social worker.

(2) The Board may decide that a person is not a suitable person to hold non-practising registration as a social worker under this Act if, in the Board's opinion, the person is not a fit and proper person to be registered as a social worker or, for any other reason, it is not in the public interest for the person to be registered as a social worker.

25 (3) A person who holds non-practising registration as a social worker under this Act must not undertake social work services.

(4) A contravention of subsection (3) by a person registered as a social worker does not constitute an offence but may constitute unprofessional conduct.

25—Application for registration

30 (1) An application for registration as a social worker must—

(a) be made to the Board in the manner and form approved by the Board; and

(b) be accompanied by the prescribed fee.

(2) An applicant for registration must—

35 (a) consent to the conduct by the Board of a criminal record check relating to the applicant; and

(b) provide evidence of a kind determined by the Board that a working with children check has been conducted in relation to the applicant within the preceding 5 years; and

- (c) submit to the Board a criminal history report (such as a National Police Certificate) relating to the applicant provided by South Australia Police or the ACC or an ACC accredited agency or broker; and
- (d) if the Board so requires for the purpose of determining whether the applicant's capacity to practise as a social worker is seriously impaired by an illness or disability affecting the applicant's behaviour or competence as a social worker—
- (i) submit to a medical examination by a medical practitioner selected by the applicant from a panel of medical practitioners nominated by the Board; and
- (ii) provide, or authorise the medical practitioner to provide, a report on the results of the medical examination to the Board; and
- (e) provide the Board with any information required by the Board for the purposes of determining the application, verified, if the Board so requires, by statutory declaration.
- (3) An applicant for registration must pay, in addition to the prescribed fee, an amount specified by the Board, being an amount payable by the Board for the conduct by the Board of a criminal record check relating to the applicant.
- (4) An application for renewal of registration must be made not less than 1 month before the expiry of the registration.

26—Grant of registration

- (1) The Board may, on application under this Part, grant registration to the applicant if satisfied that the applicant is eligible for registration as a social worker.
- (2) The Board is not required, if it has assessed a person's qualifications to be appropriate for registration, to assess the person's qualifications again on a subsequent application by the person.

27—Scopes of Practice

- (1) The Board may, when granting registration to an applicant, authorise the applicant to practise within a scope of practice of the social work profession.
- (2) The contents of an authorisation form the applicant's individual scope of practice.
- (3) The Board may authorise a change to the existing individual scope of practice of a person registered as a social worker under this Act on application by the person or on its own initiative.
- (4) An application under subsection (3) must—
- (a) be made to the Board in the manner and form approved by the Board; and
- (b) be accompanied by the prescribed fee.
- (5) If the Board proposes to authorise a change to the existing individual scope of practice of a person registered as a social worker under this Act on its own initiative, the person must, in accordance with the regulations, be given an opportunity to make written submissions and be heard on the matter before the authorisation is determined.

- (6) An authorisation under subsection (1) or (2) must identify the applicable scope of practice of the profession and specify the social work services within that scope of practice that the applicant is, subject to any condition included in the authorisation, permitted to perform or not permitted to perform.
- 5 (7) An authorisation under subsection (5) must state the change involved by reference to 1 or more of the following matters:
- (a) the applicable scope of practice of the profession;
 - (b) the social work service or services under that scope of practice that the applicant will now be permitted to perform or not permitted to perform;
 - 10 (c) the cancellation or variation of an existing condition;
 - (d) the inclusion of a new condition.
- (8) The Board may, as it thinks fit, adopt any conditions to apply to the individual scopes of practice of all social workers or all social workers of a particular description.

28—Conditions of registration

- 15 (1) It is a condition of every registration that a working with children check be conducted in relation to the person at least once in each 5 year period.
- (2) The Board may impose conditions of registration which may include (but are not limited to) the following:
- 20 (a) conditions requiring the person to complete a course or acquire experience as a social worker;
 - (b) conditions restricting the services the person may provide;
 - (c) conditions requiring the supervision of the person;
 - (d) conditions limiting the period for which the registration remains in force;
 - (e) conditions requiring the provision of further evidence as to competence.
- 25 (3) Without limiting the effect of subsection (2), the Board must—
- (a) make it a condition of every registration that for the duration of the registration period the person complete a minimum number of hours (as prescribed by regulation or determined by the Board) of further education and training that the Board has approved to be of an appropriate standard or that
 - 30 has been prescribed by regulation; and
 - (b) make it a condition of every registration that—
 - (i) if the person is charged with or convicted of an offence of a kind specified in the condition (which may include offences under the law of South Australia or elsewhere), the person must, within 14 days,
 - 35 give written notice of the charge or conviction to the Board containing the details specified in the condition; and

- 5 (ii) if the person is dismissed from employment as a social worker in response to allegations of unprofessional conduct, or resigns from employment as a social worker following allegations of unprofessional conduct, the person must, within 14 days, give written notice of the person's dismissal or resignation to the Board containing the details specified in the condition; and
- 10 (iii) if the person is dismissed from any employment in response to allegations of improper conduct relating to a child, or resigns from employment following allegations of improper conduct relating to a child, the person must, within 14 days, give written notice of the person's dismissal or resignation to the Board containing the details specified in the condition.
- (4) The Board may, at any time, audit a registered social worker to determine the registered social worker's compliance with the condition set out in subsection (3)(a).
- 15 (5) The Board may, on application or by written notice, vary or revoke a condition, or impose a condition, of a person's registration as a social worker.

29—Term of registration

- (1) Subject to this Act, registration as a social worker remains in force—
- 20 (a) until 31 January in the third year following the year in which the registration was granted or last renewed; or
- (b) if the registration is subject to a condition limiting the period for which it remains in force to a lesser period—for that period.
- (2) The Board may, if it thinks fit, on granting registration, determine that the term of the registration commences from the end of a preceding term of registration.

30—Requirement for provision of information

- 25 (1) The Board or the Registrar may, at any time, require a registered social worker or the employer or a former employer of a registered social worker to provide information relating to the social worker or the social worker's employment.
- 30 (2) A person who fails to comply with a requirement under this section is guilty of an offence.
- Maximum penalty: \$1 250.
- Expiation fee: \$160.

31—Register

- (1) The Board must maintain—
- 35 (a) a register of social workers registered under this Part (the **register**); and
- (b) a record of persons who have been removed from the register referred to in paragraph (a) and who have not been reinstated to that register (the **record of deregistered social workers**).
- (2) The register must include the following in relation to each registered person:
- 40 (a) the person's full name, personal address and business address (if any);
- (b) the qualifications for registration held by the person;

- (c) details of any condition of the person's registration;
- (d) details of the most recent working with children check conducted in relation to the person (if known);
- (e) the expiry date of the person's registration;
- 5 (f) the person's registration number;
- (g) any other information prescribed by regulations,
- and may include other information as the Board thinks fit.
- (3) A registered social worker must, within 28 days after changing their name or nominated contact address, inform the Registrar in writing of the change.
- 10 Maximum penalty: \$1 250.
Expiation fee: \$160.
- (4) A registered social worker must, as soon as is reasonably practicable after a working with children check is conducted in relation to the person (but in any event within 7 days), inform the Registrar in writing of that fact, and provide such details relating to the working with children check as the Registrar may require.
- 15 (5) The record of deregistered social workers—
- (a) must not include any person who is deceased; and
- (b) must include, in relation to each person who has been removed from the register, a statement of—
- 20 (i) the reason for removal of the person; and
- (ii) the date of removal; and
- (iii) if the removal was consequent on suspension—the duration of the suspension; and
- 25 (iv) if the person has been disqualified from being registered on the register—the duration of the disqualification; and
- (c) must have deleted from it all information relating to any person who is reinstated on the register.
- (6) The Registrar is responsible to the Board for the form and maintenance of the register and the record of deregistered social workers.
- 30 (7) The Registrar must correct an entry in the register or the record of deregistered social workers that is not, or has ceased to be, correct.
- (8) The register and the record of deregistered social workers must be kept available for inspection by any person during ordinary office hours at the office of the Registrar and may be made available to the public by electronic means.
- 35 (9) A person may, on payment of the prescribed fee, obtain a copy of any part of the register or the record of deregistered social workers.
- (10) Despite subsection (8) and (9), a nominated contact address is not to be disclosed except to a person who satisfies the Registrar that the person has an adequate reason for wanting the nominated contact address.

- (11) A certificate stating that a person was, or was not, listed on the register or the record of deregistered social workers under this Act at a particular date, or during a particular period, and purporting to be signed by the Registrar will, in the absence of proof to the contrary, be accepted in legal proceedings as proof of the registration or deregistration, or of the fact that the person was never so registered, on the date, or during the period, stated in the certificate.

32—Certificates of registration

- (1) The Registrar must, on the registration of a person as a social worker, issue to the person a certificate of registration in a form approved by the Board that includes the following information:
- (a) the person's full name and registration number;
 - (b) the conditions (if any) of the registration;
 - (c) the expiry date of the registration;
 - (d) any other information the Board thinks appropriate.
- (2) A registered social worker must, within 28 days after—
- (a) a condition of the person's registration has been varied or revoked; or
 - (b) any other change in the information recorded in the certificate of registration has occurred; or
 - (c) the registration has been suspended or cancelled,
- return the certificate of registration to the Registrar.
- Maximum penalty: \$1 250.
Expiation fee: \$160.
- (3) On receipt of a certificate of registration under subsection (2), the Registrar must—
- (a) if the person's registration has been cancelled, destroy the certificate; or
 - (b) if the person's registration has been suspended, retain the certificate until the end of the period of suspension, and then return the certificate to the person; or
 - (c) in any other case, unless the Registrar determines otherwise, alter the certificate or issue a new certificate.

Part 5—Fit and proper person

33—Fit and proper person

- (1) The Board may find that a person is not a fit and proper person to be registered as a social worker only if it is satisfied that there are grounds on which a reasonable person would reach that conclusion.
- (2) The Board may be satisfied that those grounds exist if—
- (a) 1 or more of the following circumstances occur:
 - (i) the person has not satisfied the Board that they are able to communicate effectively for the purposes of practising as a social worker;

- (ii) the person has not satisfied the Board that their ability to communicate in and comprehend English is sufficient to protect the health and safety of the public;
- (iii) the person has been convicted, in this or another jurisdiction, of an offence punishable by imprisonment of 3 months or more, and the Board is satisfied that the nature and circumstances of the offence reflect adversely on the person's fitness to practise as a social worker;
- (iv) the Board is satisfied that the person is unable to satisfactorily perform the functions required to practise as a social worker because of a mental or physical condition;
- (v) the Board is satisfied on reasonable grounds that the person is not of good character or reputation;
- (vi) professional disciplinary proceedings are being taken against the person in this or another jurisdiction, and the Board considers on reasonable grounds that those proceedings reflect adversely on the person's fitness to practise as a social worker;
- (vii) the person is subject to an investigation in this or another jurisdiction relating to any matter that may lead to the taking of professional disciplinary proceedings against the person, and the Board considers on reasonable grounds that the investigation reflects adversely on the person's fitness to practise as a social worker;
- (viii) a finding or an order has been made against the person in professional disciplinary proceedings or an investigation, and the person has not satisfied the Board that the finding or order does not reflect adversely on their fitness to practise as a social worker;
- (ix) the Board is satisfied on reasonable grounds that the person may endanger the health or safety of a member or members of the public; or

- (b) circumstances of a kind referred to in criteria developed by the Board under subsection (3) occur in relation to the person.

- (3) The Board may develop further criteria for the purposes of assessing whether a person is not fit and proper to be registered as a social worker.
- (4) Criteria developed by the Board under subsection (3) may provide that particular circumstances set out in subsection (2)(a) do not apply for the purposes of this section or apply with specified modifications.

Part 6—Offences

34—Holding out as being registered

- (1) A person must not hold themselves out as a social worker or permit another person to do so, unless the person is registered under this Act.

Maximum penalty: \$10 000.

- (2) A person must not hold out another as a social worker unless the other person is registered under this Act.

Maximum penalty: \$10 000.

35—Holding out concerning a registration subject to conditions

- 5 A person whose registration is subject to a condition or conditions must not hold themselves out as having a registration that is not subject to a condition, or permit another person to do so.

Maximum penalty: \$10 000.

36—Offence to contravene conditions of registration

- 10 (1) A person who contravenes, or fails to comply with, a condition imposed under this Act on the person's registration is guilty of an offence.

Maximum penalty: \$10 000.

- (2) A person who contravenes a condition of the person's registration that requires the Board to be notified of a matter or imposes a restriction on the practice of social work by the person is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

37—Procurement of registration by fraud

- 20 A person who, by fraud or any other dishonest means, procures (whether for themselves or for another person) registration, or reinstatement of registration, under this Act is guilty of an offence.

Maximum penalty: \$10 000.

38—Social worker to produce certificate of registration

- 25 (1) A registered social worker must, on request by a prescribed person for a purpose related to the provision of prescribed social work services by the social worker, produce the person's certificate of registration.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) In this section—

30 ***prescribed person*** means—

- (a) the Registrar, or a person authorised by the Registrar; or
- (b) a person to whom the social worker has provided, or is providing, social work services; or
- (c) a service provider who has provided, or who is proposing to provide, social work services through the social worker; or
- 35 (d) any other person brought within the ambit of this definition by the regulations.

Part 7—Investigations and proceedings

39—Cause for disciplinary action

- (1) There is proper cause for disciplinary action against a registered social worker if—
- (a) the person's registration was improperly obtained; or
 - (b) the person is guilty of unprofessional conduct; or
 - (c) a working with children check has not been conducted in relation to the social worker within the preceding 5 years; or
 - (d) the person is for any reason no longer a fit and proper person to be registered as a social worker under this Act.
- (2) In this section, a reference to a **registered social worker** includes a reference to a person who is not but who was, at the relevant time, registered under this Act.

40—Suspension of registration if working with children check not current etc

- (1) The Board may, if satisfied that a working with children check has not been conducted in relation to a registered social worker within the preceding 5 years suspend (without any requirement for a hearing or other process) the registration of the social worker.
- (2) A suspension under this section has effect—
- (a) until the fulfilment of specified conditions or until further order of the Board; or
 - (b) if the social worker's registration is cancelled under section 43(5)—until that cancellation has effect,
- whichever occurs first.
- (3) To avoid doubt, a suspension of a social worker's registration under this section has effect whether or not an appeal has, or is to be, instituted against the decision to suspend the registration of the social worker.

41—Employer to report dismissal etc for unprofessional conduct

- (1) If the employer of a registered social worker dismisses the social worker in response to allegations of unprofessional conduct, or accepts the resignation of the social worker following allegations of unprofessional conduct, the employer must, within 7 days, submit a written report to the Board—
- (a) describing the circumstances of the dismissal or resignation; and
 - (b) containing all other prescribed information.
- Maximum penalty: \$5 000.
- (2) A person incurs no liability by making a report purportedly in compliance with this section in good faith.

42—Registrar may conduct investigation

- (1) The Registrar, or a person authorised by the Registrar, may, for the purpose of determining whether there is a basis for the Registrar to make a complaint to the Board under this Part, require a person—
- 5 (a) to answer questions and to be present or attend a specified place and time for that purpose; and
- (b) to provide information or to produce material for inspection.
- (2) The Registrar or other person acting under this section may retain any material produced under this section for such reasonable period as the Registrar or other person
- 10 thinks fit, and make copies of the material, or any of its contents.
- (3) A person who fails, without reasonable excuse, to comply with a requirement under this section is guilty of an offence.
- Maximum penalty: \$5 000.
- (4) This section does not limit or affect a power of investigation or inquiry that exists
- 15 apart from this section.

43—Inquiries and disciplinary action

- (1) A complaint setting out matters that are alleged to constitute grounds for disciplinary action against a registered social worker may be given to the Board (in a manner and form approved by the Board) by—
- 20 (a) the Registrar; or
- (b) the Minister; or
- (c) the employer of the person; or
- (d) a person who is aggrieved by the conduct of the person or, if the person aggrieved is a child or is suffering from a mental or physical incapacity, by a
- 25 person acting on the aggrieved person's behalf.
- (2) The administrative processes established by the Board for handling complaints received against a social worker (the **respondent**) must be designed—
- (a) to be fair to both the aggrieved person and the respondent; and
- (b) to keep both the aggrieved person and the respondent properly informed
- 30 about the steps taken by the Board in response to the complaint; and
- (c) to provide, if appropriate, opportunities for the clarification of any misapprehension or misunderstanding between the aggrieved person and the respondent; and
- (d) to keep both the aggrieved person and the respondent properly informed
- 35 about the outcome of the processes; and
- (e) to take into account the needs of particular classes of persons who may otherwise suffer disadvantage in the conduct of those processes.
- (3) If a complaint is made against a person under this section, the Board must, subject to subsection (4), inquire into the subject matter of the complaint.

(4) If a complaint has been made against a person under this section by or on behalf of an aggrieved person—

(a) the Board need not inquire into the subject matter of the complaint if the Board determines that the complaint is frivolous or vexatious; and

(b) the Board may, if satisfied that the complaint arose from a misapprehension on the part of the complainant or from a misunderstanding between the parties, before proceeding further with the hearing of the complaint, require the parties to attend before the Registrar in order to clarify the misapprehension or misunderstanding.

(5) If, after conducting an inquiry under this section, the Board is satisfied on the balance of probabilities that there is proper cause for disciplinary action against the respondent, the Board may, by order, do 1 or more of the following:

(a) censure the respondent;

(b) require the respondent to pay to the Board a fine not exceeding \$2 500;

(c) if the respondent is a person who is registered as a social worker under this Act—

(i) impose conditions on the social worker's registration; or

(ii) suspend the social worker's registration; or

(iii) cancel the social worker's registration;

(d) disqualify the respondent from being registered under this Act.

(6) The Board may—

(a) stipulate that an order under subsection (5) is to apply—

(i) with immediate effect; or

(ii) with effect at a future specified date, in which case the Board may impose conditions as to the conduct of the person until that time; and

(b) stipulate that a disqualification or prohibition under subsection (5) is to apply—

(i) permanently; or

(ii) for a specified period; or

(iii) until the fulfilment of specified conditions; or

(iv) until further order.

(7) If—

(a) a person has been found guilty of an offence; and

(b) the circumstances of the offence form, in whole or in part, the subject matter of the complaint,

the person is not liable to a fine under this section in respect of conduct giving rise to the offence.

(8) The Board may—

(a) fix a period within which a fine imposed under this section must be paid; and

- (b) on application by a person liable to pay a fine imposed under this section, extend the period within which the fine must be paid.
- (9) A fine imposed under this section is recoverable by the Board as a debt.
- (10) The Board may, without further notice, remove from the register a person who fails to pay a fine imposed under this section.

44—Disciplinary Advisory Panel

- (1) If, after conducting an inquiry under section 43, the Board—
 - (a) considers that there may be proper grounds for disciplinary action against the respondent; but
 - (b) wishes to obtain further advice before making a final decision on the matter, the Board may—
 - (c) establish an independent panel (a **Disciplinary Advisory Panel**) comprised of such members (not exceeding 5) as the Board sees fit; and
 - (d) refer 1 or more questions relating to the matter to the Panel for advice.
- (2) The function of a Disciplinary Advisory Panel is to give an opinion on any question referred to it under this section.
- (3) A Disciplinary Advisory Panel must form its opinion on a question referred under this section within 30 days after the reference is made or such longer period as may be agreed by the Board.
- (4) A Disciplinary Advisory Panel may make such recommendations as it thinks fit in response to a question referred to the Panel under this section, including recommendations as to whether disciplinary action should be taken by the Panel under section 43(5) and, if so, the action that should be taken.
- (5) However, the Board is not bound to follow a recommendation given by a Disciplinary Advisory Panel.
- (6) A Disciplinary Advisory Panel may inform itself as it considers appropriate.
- (7) The regulations may make further provision in relation to the procedures of Disciplinary Advisory Panels and the terms and conditions of appointment of members of Disciplinary Advisory Panels.
- (8) A Disciplinary Advisory Panel will, subject to regulations under subsection (7), determine its own procedures.

45—Notification by Registrar of inquiry and outcome

- (1) The Registrar must, as soon as practicable, give notice of the commencement of an inquiry under this Part, and then of the outcome of the inquiry, to the employer of the person if the person to whom the inquiry relates is employed in a position that involves social work.
- (2) If, after conducting an inquiry under this Part, the Board takes disciplinary action of a kind referred to in section 43(5)(c) or (d) against a person registered as a social worker under this Act, the Board may, if it considers that to do so is in the public interest, give notice of the action on its website.

46—Variation or revocation of conditions imposed by Board

- (1) The Board may, at any time, on application by a registered social worker, vary or revoke a condition imposed by the Board in relation to the person's registration under this Act.
- 5 (2) The Registrar and the Minister are entitled to appear and be heard on an application under this section.

47—Constitution of Board for purpose of proceedings

- 10 (1) The Board will, for the purpose of hearing and determining proceedings under this Part, be constituted of 3 members selected by the presiding member (or, in the absence of the presiding member, the deputy presiding member).
- (2) The Governor may appoint a person as a special member of the Board under this Part (and a person so appointed may (but need not) act as a member of the Board for the purpose of any proceedings under this Part).
- 15 (3) The presiding member of the Board (or, in the absence of the presiding member, the deputy presiding member) will appoint 1 of the members of the Board, as so constituted for the purposes of any particular proceedings, to preside over those proceedings.
- 20 (4) If a member of the Board as constituted under this section (other than the member presiding over the proceedings) dies or is for any other reason unable to continue with the proceedings, the Board constituted of the remaining members may, if the member presiding over the proceedings so determines, continue and complete the proceedings.
- (5) Any questions of law or procedure arising before the Board will be determined by the member presiding over the proceedings and any other questions by unanimous or majority decision of the members.
- 25 (6) The Board constituted of the member presiding over the proceedings may, sitting alone—
- (a) deal with—
- 30 (i) preliminary, interlocutory or procedural matters (including, for example, whether a complaint is frivolous or vexatious, or may have arisen from a misapprehension); or
- (ii) questions of costs; or
- (iii) questions of law; or
- (b) enter consent orders,
- 35 and may, for that purpose or as a consequence, while sitting alone, make any determination or order (including a final order) that the member considers appropriate.

48—Principles governing proceedings

- (1) In proceedings before the Board under this Act, the Board—
- 40 (a) is not bound by the rules of evidence and may inform itself on any matter as it thinks fit; and
- (b) must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

- (2) In proceedings before the Board under this Act, the Board must keep the parties to the proceedings properly informed as to the progress and outcome of the proceedings.

49—Representation at proceedings before Board

5 A party to proceedings before the Board (including an applicant for registration or reinstatement of registration) is entitled to be represented at the hearing of those proceedings.

50—Powers of Board in relation to witnesses etc

- (1) For the purposes of proceedings before the Board (including an application for registration or reinstatement of registration), the Board may—
- 10 (a) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the attendance before the Board of a person whom the Board thinks fit to call before it; or
- (b) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the production of relevant documents or records and, in the
- 15 case of a document or record that is not in the English language—
- (i) a written translation of the document or record into English; and
- (ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record; or
- 20 (c) inspect documents or records produced before it, and retain them for such reasonable period as it thinks fit, and make copies of the documents or records or their contents; or
- (d) require a person to make an oath or affirmation (which may be administered by a member of the Board) to answer truthfully questions put by a member of
- 25 the Board or a person appearing before the Board; or
- (e) require a person appearing before the Board (whether summoned to appear or not) to answer questions put by a member of the Board or by a person appearing before the Board.
- (2) On the receipt of an application for the issue of a summons under this section, a
- 30 member of the Board or the Registrar may, without referring the matter to the Board, issue a summons on behalf of the Board.
- (3) A person who—
- (a) fails without reasonable excuse to comply with a summons issued to attend, or to produce documents or records before the Board; or
- 35 (b) having been served with a summons to produce—
- (i) a written translation of the document or record into English; and
- (ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record,
- 40 fails, without reasonable excuse, to comply with the summons; or

(c) misbehaves before the Board, wilfully insults the Board or 1 or more of the members in the exercise of the member's official duties, or wilfully interrupts the proceedings of the Board; or

(d) refuses to be sworn or to affirm, or refuses or fails to answer truthfully a relevant question when required to do so by the Board,

is guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for 6 months.

(4) A person who appears as a witness before the Board has the same protection as a witness in proceedings before the Supreme Court.

51—Provisions as to proceedings before Board

(1) Subject to this Act, the Board must give to all of the parties to proceedings before the Board under this Part at least 14 days written notice of the time and place at which it intends to conduct the proceedings, and must afford to the parties a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses, and to make submissions to the Board.

(2) However, the Board may, if it thinks special reasons exist for doing so, give a lesser period of written notice under subsection (1).

(3) The requirement to give written notice under subsection (1) does not extend to adjournments.

(4) If a party to whom notice has been given under subsection (1) does not attend at the time and place fixed by the notice, the Board may proceed to hear and determine the matter in the absence of that party.

(5) The Board may, if of the opinion that it is desirable to do so in the public interest—

(a) suspend the registration of the person the subject of the proceedings; or

(b) impose conditions on the person's registration restricting the person's right to provide social work services,

pending hearing and determination of the proceedings.

(6) A person who is aggrieved by the conduct of a person that is the subject-matter of proceedings before the Board under this Part is, subject to any direction of the Board to the contrary, entitled to be present at the hearing of the proceedings.

(7) In the course of proceedings before the Board under this Part, the Board may—

(a) receive in evidence a transcript of evidence taken in proceedings before a court, tribunal or other body constituted under the law of South Australia or of any other State or a Territory of Australia or of another country, and draw any conclusions of fact from the evidence that it considers proper; and

(b) adopt, as in its discretion it considers proper, any findings, decision, judgment, or reasons for judgment, of any such court, tribunal or body that may be relevant to the proceedings.

(8) The Board must conduct proceedings under this Part as expeditiously as possible (and must, if the Board has taken action under subsection (5), hear and determine the proceedings as a matter of urgency).

52—Costs

- (1) The Board may award such costs against a party to proceedings before it as the Board considers just and reasonable.
- (2) A party who is dissatisfied with the amount of the costs awarded by the Board may request a Master of the District Court to tax the costs and, after taxing the costs, the Master may confirm or vary the amount of the costs awarded by the Board.
- (3) Costs awarded by the Board under this section may be recovered as a debt.

Part 8—Appeals**53—Right of appeal to South Australian Civil and Administrative Tribunal**

- (1) An appeal lies to the South Australian Civil and Administrative Tribunal (the *Tribunal*) against—
 - (a) a refusal by the Board to register, or reinstate the registration of, a person under this Act; or
 - (b) the imposition by the Board of conditions on a person's registration under this Act; or
 - (c) a decision made by the Board in proceedings under Part 7.
- (2) An appeal under subsection (1)(c) against a decision may be instituted—
 - (a) in the case of a decision made in disciplinary proceedings—by the complainant or the respondent in the proceedings in which the decision was made; or
 - (b) in the case of a decision under section 46—by the applicant or a person entitled to be heard in the proceedings.
- (3) An appeal must be instituted within 28 days of the date of the decision appealed against.

54—Operation of order may be suspended

- (1) If an order has been made by the Board, and the Board or the Tribunal is satisfied that an appeal against the order has been instituted, or is intended, it may suspend the operation of the order until the determination of the appeal.
- (2) If the Board has suspended the operation of an order under subsection (1), the Board may terminate the suspension, and if the Tribunal has done so, the Tribunal may terminate the suspension.

55—Variation or revocation of conditions imposed by Tribunal

- (1) The Tribunal may, at any time, on application by a person who is registered under this Act, vary or revoke a condition imposed by the Tribunal in relation to the person's registration.
- (2) The Board and the Minister are entitled to appear and be heard on an application under this section.

Part 9—Miscellaneous

56—Exemptions

- (1) Subject to this section, the Minister may, by notice in the Gazette—
- (a) exempt a person or class of persons, subject to such conditions as the Minister thinks fit and specifies in the notice, from specified provisions of this Act; or
 - (b) vary or revoke an exemption, or a condition of an exemption, under this section or impose a further condition.
- (2) The Minister must consult with the Board before making a notice under subsection (1).
- (3) A person who contravenes a condition of an exemption is guilty of an offence.
Maximum penalty: \$10 000.

57—Statutory declarations

If a person is required under this Act to provide information to the Board, the Board may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been verified in accordance with the requirements of the Board.

58—False or misleading statement

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information kept or provided under this Act.
Maximum penalty: \$5 000.

59—Self-incrimination

If a person is required to provide information or to produce a document or record under this Act and the information, document or record would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document or record but the information, document or record so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than an offence against this or any other Act relating to the provision of false or misleading information.

60—Punishment of conduct that constitutes an offence

If conduct constitutes an offence and is also a ground for disciplinary action under this Act, the taking of disciplinary action under this Act is not a bar to conviction and punishment for the offence, nor is conviction and punishment for the offence a bar to disciplinary action under this Act.

61—Payment of fines

A fine imposed for an offence against this Act must be paid to the Board.

62—Ministerial review of decisions relating to courses

- (1) If the Board—
- (a) refuses to approve a course of education or training for the purposes of this Act; or
 - (b) revokes an approval of a course of education or training under this Act, the provider of the course may apply to the Minister for a review of that decision.
- (2) The Minister may determine the application as the Minister thinks fit and, if the Minister finds in favour of the applicant, grant or preserve the approval (as appropriate).

63—Confidentiality

- (1) A person engaged or formerly engaged in the administration of this Act must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—
- (a) as required or authorised by or under this Act or any other Act or law; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) in connection with the administration of this Act; or
 - (d) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.
- Maximum penalty: \$5 000.
- (2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.
- (3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—
- (a) the person to whom the information was disclosed; or
 - (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$5 000.

64—Service of documents

- (1) A notice or document required or authorised to be given or sent to, or served on, a person for the purposes of this Act may—
- (a) be given to the person personally; or
 - (b) be posted in an envelope addressed to the person—
 - (i) at the person's last known address; or
 - (ii) at the person's address for service; or
 - (c) be transmitted by fax or email to a fax number or email address provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).

- (2) The address for service of a person registered under this Act is the address for the person that appears on the register under this Act.

65—Regulations and fee notices

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

- (2) Without limiting the generality of subsection (1), the regulations may—

- (a) exempt any person or class of persons from the obligation to pay a fee prescribed for the purposes of this Act; and
- (b) regulate, or otherwise make provision with respect to, the education and training of social workers for the purposes of this Act, including by making provision with respect to the approval of courses that may lead to registration; and
- (c) make any provision with respect to the keeping of the register under this Act; and
- (d) make any provision with respect to certificates of registration under this Act; and
- (e) prescribe penalties, not exceeding \$2 500, for breach of, or non-compliance with, a regulation.

- (3) The regulations may—

- (a) refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed body or person, either as in force at the time the regulations are made or as in force from time to time; and
- (b) be of general or limited application; and
- (c) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
- (d) provide that a specified provision of this Act does not apply, or applies with prescribed variations, to any person, circumstance or situation (or person, circumstance or situation of a prescribed class) specified by the regulations, subject to any condition to which the regulations are expressed to be subject; and
- (e) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Board or another prescribed authority.

- (4) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.

- (5) A fee notice may—

- (a) include fees for services provided by the Board in the exercise of its functions under this Act; and
- (b) exempt any person or class of persons from the obligation to pay a prescribed fee.

- (6) If a code, standard or other document is referred to or incorporated in the regulations—

- (a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during normal office hours, at an office or offices specified in the regulations; and
- (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

66—Review

- (1) The Minister must appoint an independent person to conduct a review of this Act and its administration and operation on the expiry of 3 years from its commencement.
- (2) The review must include an assessment of the extent to which the objectives of this Act are being achieved.
- (3) The review must be completed within 4 months and the results of the review embodied in a written report.
- (4) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after receiving the report.