



COMPARATIVE ANALYSIS OF THE SOCIAL SERVICE PRACTITIONERS LEGISLATION

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Introduction

The Social Service Professions Act (No. 110 of 1978) regulates professional practice and establishes the South African Council for Social Service Professionals (SACSSP). This Act is outdated and will be replaced shortly.

The draft legislation, the Social Service Professions Bill 2008, was published for comment in the Government Gazette in January 2008. The purpose of the new Bill is to “advance social justice by promoting developmental social services”. To achieve this aim, it contains six chapters that define the categories of practitioners that are to be registered, and deals with other matters such the requirements for registration, and disciplinary procedures.

A second draft of the Bill, including comments from the SACSSP, was released in mid-2008. Concerns have been raised about this version by some of the occupational groups. The draft Bill will be revised again before it is sent to the Minister of Social Development.

The draft Bill will be sent to Cabinet before the minister tables it in Parliament. Parliament must invite public comment and will probably hold public hearings. It is likely that the Bill will be tabled in the second half of 2009; however, this is not certain as we cannot predict the priorities of the new government after the 2009 general elections.

The Social Service Practitioners' Network (SSPAN) has identified key debate areas which include:

- The powers and functions of the SA Council for Social Service Professions (SACSSP)
- Composition of the SACSSP
- Professional Boards
- Training and Qualifications
- Registration of Social Service Practitioners
- Community Service

This comparison shall therefore first seek to identify differences and implications between the following pieces of legislation in as far as the key debate areas are concerned:

- Social Service Professions Act (110 of 1978)
- Social Service Professions Bill (Gazetted in Jan 2008)
- Social Service Practitioners Bill (Unofficial revision by SACSSP)

Social Service Professions Act 110 of 1978	Social Service Professions Bill of Jan 2008	Social Service Practitioners Bill (SACSSP revision)
<p>TITLE</p> <p>The title of the legislation is Social Service Professions Act.</p>	<p>The title of the Bill is Social Service Professions Bill.</p>	<p>'Professions' has been substituted with <i>Practitioners</i>.</p>
<p>DEFINITIONS</p> <p>The Act provides for registration of 'other' professions in respect of which professional boards have been established. The listed professions are social workers, student social workers, and social auxiliary workers.</p>	<p>Section 1 is the definitions and encompasses definitions of various social service professional. New definitions are introduced and those are: "child and youth care worker", "auxiliary child and youth care worker", "social service practitioner", "social service profession", "student social auxiliary worker", "student child and youth care worker", "practise and prescribed qualification."</p>	<p>Certain definitions have been omitted, those are: "auxiliary child and youth care worker," "student social auxiliary worker", "student child and youth care worker,"</p>
<p>OBJECTS</p> <p>3. Section 3(i) reads 'to exercise effective control over the professional conduct of social workers, student social workers, social auxiliary workers and persons practising other professions in respect of which professional boards have been established.</p>	<p>Section 2(a) prioritises advancement of social justice as an object of the Act. Section 2(d) reads 'to promote professional and ethical standards within the social service profession'.</p>	<p>Section 2(a) has the establishment of the council as a priority and this proposed amendment illustrates where the council's priorities lie.</p> <p>Section 2(f) reads 'to promote the professional and ethical standards of social service practitioners.</p>
<p>POWERS OF COUNCIL</p> <p>The powers of conferred upon</p>	<p>Sections 4(a), 5(a), 6(a) require</p>	<p>The obligations to</p>

<p>Council by Section 4 are mostly the general powers that any juristic person would have. These include the power to sue and be sued, acquire and dispose of property, enter into contracts etc.</p>	<p>council to recommend/advise the Minister on matters affecting social service professions; on registration of social service practitioners and on education and training standards.</p>	<p>recommend/advise the Minister has not been changed.</p>
<p>COMPOSITION</p> <p>4. Section 5(1)(b) provides for three representatives from professional boards other than social work; and two nominated by training institutions, to form part of the council.</p>	<p>Section 9(1)(a) and (e) states that three persons from the professional boards and two from the training institution, will form part of the council. S9(1)(a)(i) states that the representatives must be <i>registered</i> to practice a social service profession. Section 9(3) states that Council may co-opt two additional members if it believes it necessary to supplement expertise and experience OR to accommodate additional constituencies in the social services developmental field.</p>	<p>Section 9(1)(a) and (e) reduces the number to two and one respectively.</p>
<p>COMPOSITION & POWERS OF PROFESSIONAL BOARDS</p> <p>Professional boards are established by the Minister upon recommendation by Council (S14A). Section 14B(c) grants the professional boards control and authority in respect of all matters affecting training of persons falling under their ambit; 14Bd) grants the professional boards power to determine minimum standards of education and training of persons falling under their ambit; ss(d) grants prof boards direct access to the Minister to communicate matters of public importance.</p>	<p>Chapter 3: The power to designate any profession as a social service profession is conferred upon the Minister on recommendation by Council.</p> <p>Professional boards are established by Minister on council's recommendation(S23(1)). The powers of prof. boards have been reduced in terms of the authority and control over training and education standards. Section 24(2) requires the board to advise the council on such matters.</p>	<p>Chapter 3 reads the same as the gazetted Bill.</p>
<p>PROFESSIONS THAT CAN BE REGISTERED</p> <p>Section 17C(2)(a) provides for registration of person(s) of another profession in respect of which a professional board has been established. Social workers and student social workers are registered by council</p>	<p>Section 27 (1) specifies the categories of persons that may register in the social service professions. The list includes auxiliary child and youth care worker, student social auxiliary worker, student child and youth</p>	<p>Section 27 (1) makes provision for registration of four categories which are social worker, social auxiliary worker, student social worker; and child and youth care worker.</p>

<p>subject to holding prescribed qualification, satisfying prescribed conditions, and shall be issued with a certificate by the registrar.</p> <p>In respect of social auxiliary workers (s18), council prescribes the qualifications which entitle the holder to be registered as a social auxiliary worker.</p>	<p>care worker, student child and youth care worker.</p>	<p>(comments in the margin of the draft reveal that the inclusion of child and youth care workers is still under discussion).</p>
<p>MANDATORY REGISTRATION</p> <p>Section 15(1)(a) states that no person shall practise as a social service professional unless registered with a professional board or unless registered as a social worker,</p> <p>Section 16 states that any person who practices without registering is guilty of an offence and can face a fine or imprisonment.</p>	<p>Section 27(3) states that a person may practise in a category contemplated in subsection (1) only if he or she is registered in that category.</p>	<p>Section 27(3) reads the same as the gazetted bill.</p>
<p>REGISTERS</p> <p>Registers are kept separately in respect of social workers, student social workers, social auxiliary workers and other persons (s19); and are kept in the council's offices.</p>	<p>Section 32 provides that the Registrar is responsible for keeping and maintaining professional registers of the council and such registers must be kept separately</p>	<p>Section 32 has the same provisions as the gazetted bill.</p>
<p>JOB IDENTIFICATION</p> <p>The Act is silent on job identification or job demarcations. It appears that the focus of the Act was on establishment of the Council and providing for registration of the various social service professions but did not deal with the actual job demarcations in respect of which profession shall perform what action/job.</p>	<p>Section 28 states that the Minister may upon recommendation by Council, identify the type of work which may be performed by persons registered in S27.</p>	<p>Section 28 states that the Minister may on recommendation by Council identify type of work which may only be performed by persons registered in s27.</p>
<p>ADDITIONAL QUALIFICATIONS AND SPECIALTIES</p> <p>Section 17C states that the Council prescribes degrees, diplomas or certificates which may be registered as additional qualification and any person requiring an additional degree or diploma registered, shall apply to the register.</p>	<p>Section 35: Council is still vested with the power to prescribe degrees, diplomas or certificates which may be registered as additional qualifications.</p>	<p>Section 35 reads the same as the gazetted bill.</p>

<p>REGISTRATION</p> <p>Section 17 deals with registration of the various social service professionals that are listed in the Act. A social service professional must hold a prescribed qualification and satisfy prescribed conditions in order to be registered.</p>	<p>Section 29(2)(a) states that a registration application must be accompanied by prescribed qualification in respect of the social service profession and registration category concerned.</p>	<p>Section 29(2)(a) states that registration application must be accompanied the prescribed qualifications in respect of the registration category concerned.</p>
<p>DISCIPLINARY MEASURES</p> <p>Chapter 3 of the Act requires council to inquire into alleged unprofessional/improper conduct on the part of social service professional. Council is granted power, after a person has been found guilty of unprofessional/improper conduct, to reprimand or caution, suspend registration for a specified period, cancel registration or issue a fine not exceeding R5000.</p>	<p>Section 39 provides that Council may after consultation with professional boards, develop and issue codes of conduct for social service professions and failure to comply with the codes constitutes unprofessional conduct.</p> <p>Section 55(2) prescribes a fine or imprisonment for contravention of the Act.</p>	<p>Section 39 reads the same as that of the gazetted bill.</p> <p>Section 55(2) specifies the fine to be R10 000</p>
<p>POWERS OF THE MINISTER</p> <p>The minister has the powers to: Appoint council members (s5); terminate membership (s6); convene special meetings (s8); approve loans (s12); establish and disestablish professional boards (s14); exercise authority in respect of qualifications (s17B&D) and make regulations (s28).</p>	<p>Minister still has all the powers that are conferred upon him by the Act and additional powers such as the power to: identify the type of work to be performed by registered in any category (s28); appoint Appeals committee (s51); and Minister has the power to make regulations regarding various issues like qualifications, standards of education, registrations etc (s55)</p>	<p>The unofficial draft is quite similar to the gazetted bill in respect of powers conferred upon the Minister.</p>

Analysis

- Title of the legislation - Where the word 'Profession' appeared in the title of the Act and the gazetted Bill, the revised SACSSP draft has substituted it with the word 'Practitioner'. The dictionary meaning of the term practitioner is a person who practises a profession, this makes practitioner a broad term that encompasses other persons who are in the social service practice. However, a professional is defined as someone who does something with great skill which suggests that a person would need specialised education and training in order to be classified as a professional. The word 'Practitioner' is broader than the word professional, it includes all those

registered at auxiliary and student levels, thus the change could be driven from a desire to recognise that Bill regulates all practitioners and not just professionals. However, it could also reflect the opposition to certain categories of social service practitioner registering as professionals.

- Section 3 of the Act is the 'Objects of the Council' signifying that the main purpose of the Act is the establishment and regulation of the Council. The gazetted bill contains a clause entitled 'Objects of the Act'(section 2). The order of priority of the Objects of the Act has rearranged in the SACSSP revised Bill. Where the gazetted Bill had prioritised the advancement of social justice, promotion and protection of the interests of the public; the unofficial Bill prioritised the establishment of council and of professional boards in respect of social service professions. It appears that the council's intention is to focus and prioritise the council's interest and not the interest of the social service profession as a whole.
- Section 4 of the Act provides for Powers of the Council which appear to be merely administrative. The powers of the council provided in the gazetted Bill (Section 6) seem to be more concerned with advancing the interests and upholding the integrity of the profession and improving the calibre of professionals allowed to practice. This provision considers the interest of the public and allows for public authorities to participate in matters affecting the profession. This clause seems to evidence the democratic spirit which may have influenced the outcome of this Bill. While the powers of the SACSSP revised Bill are more similar to those of the Gazetted Bill, the main thrust of this provision on the powers of the council is on improving the calibre of the practitioners. It places importance on having professionals with recognised educational qualifications and training. It could otherwise be inferred that the revised Bill carried the same democratic spirit, except that the exclusion of the already existing categories means that the SACSSP is mainly concerned with streamlining the social service profession and catering for the select few categories that are allowed to register.
- The current Act specifies that the three representatives in the council must be from other professions other than the social work and both the DSD and SACSSP drafts do not have that specification which makes it likely that the representatives can/may only come from social work. This read with Section 27 further makes it clear that the other currently existing categories will not be represented in the council.

Act (Section 5)	Gazetted Bill (Section9)	Revised Bill
The Act says that the council shall have between 19 & 34 members. Six members should be social workers and three from other professions with professional boards.	Council shall have 3 persons from professional boards	Two person from professional boards

- Section 18 A of the Act provides for registration of 'persons practicing other professions in respect of which professional boards have been established'. This is broad enough to include child & youth care workers, auxiliary child and youth care workers and student child and youth care workers in respect of which a professional board has been established. In the unofficial draft, fewer categories are specified in section 27(1), the Minister may on the recommendation of the Council designate additional categories. . interpreted to include auxiliary child & youth care workers, child & youth care workers, student child & youth care workers, which have been omitted from the specified categories in section 27 of the SACSSP revised Bill.
- Section 29(2)(a) states that registration application must be accompanied the prescribed qualifications in respect of the registration category concerned.
- There are fewer instances where Council is required to advise Minister on certain issues; on the objects of the council an obligation to advise the Minister is only in relation to matters affecting professions that already have established professional boards.