

CHAPTER 27:21
SOCIAL WORKERS ACT

Act 9/2001

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and date of commencement.
2. Interpretation.

PART II

COUNCIL OF SOCIAL WORKERS

3. Establishment of Council.
4. Functions and powers of Council.
5. Composition of Council.
6. Chairman and vice-chairman of Council.
7. Terms of office and conditions of service of members.
8. Disqualifications for appointment or election as member.
9. Vacation of office by member.
10. Minister may dismiss or suspend member.
11. Filling of vacancies on Council.
12. Appointment of members in default of election.
13. Meetings and procedure of Council.
14. Validity of decisions and acts of Council.
15. Funds and accounts of Council.
16. Expenses of Council.
17. Annual general meetings of social workers.
18. Committees of Council.
19. Minutes of proceedings of Council and committees.

PART III

STAFF OF COUNCIL

20. Registrar of Social Workers and other staff of Council.
21. Functions of Registrar.

PART IV

REGISTER AND REGISTRATION

22. Register of Social Workers.
23. Qualifications for registration.
24. Application for registration.
25. Grant or refusal of application for registration.
26. Certificate of registration.
27. Duration and renewal of registration.
28. Offences in connection with Register, etc.

PART V

CANCELLATION OF REGISTRATION, DISCIPLINARY INQUIRIES AND PENALTIES

29. Cancellation of registration.
30. Return of certificate of registration on cancellation of registration.
31. Inquiries by Council.
32. Exercise of powers by Council after inquiry.
33. Exercise of disciplinary powers on conviction of offence.
34. Improper or disgraceful conduct.
35. Recovery of costs and penalties by Council.

PART VI

GENERAL

36. Appeals.
37. Restoration to Register.
38. Limitation of actions against Council, its members and staff.
39. Offences by or in respect of unregistered persons.
40. Special provisions relating to companies and partnerships.
41. Notice of registration, cancellation or suspension.
42. Evidence.
43. By-laws.
44. Transitional provision: formation of first Council.

SCHEDULES

First Schedule: Social Work.

Second Schedule: Powers of Council.

Third Schedule: Persons Qualified for Registration.

AN ACT to establish a Council of Social Workers and to provide for its functions; to provide for the registration of social workers and the regulation of the practice of social work; and to provide for matters connected with or incidental to the foregoing.

[Date of commencement: 3rd November, 2003.]

PART I

PRELIMINARY

1 Short title and date of commencement

This Act may be cited as the Social Workers Act [*Chapter 27:21*].

2 Interpretation

In this Act—

“appointed member” means a member referred to in paragraph (c) of subsection (1) of section *five*;

“certificate of registration” means a certificate issued to a registered person in terms of section *twenty-six*;

“Council” means the Council of Social Workers established by section *three*;

“elected member” means a member who has been elected or is deemed to have been elected to the Council in terms of paragraph (d) of subsection (1) of section *five*;

“member” means the chairman or any other member of the Council referred to in subsection (1) of section *five*;

“Minister” means the Minister of Public Service, Labour and Social Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“Register” means the Register of Social Workers established in terms of subsection (1) of section *twenty-two*;

“registered” means registered in terms of this Act;

“Registrar” means the Registrar of Social Workers appointed in terms of section *twenty*.

PART II

COUNCIL OF SOCIAL WORKERS

3 Establishment of Council

There is hereby established a council to be known as the Council of Social Workers, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of doing anything that bodies corporate may do by law.

4 Functions and powers of Council

(1) Subject to this Act, the functions of the Council shall be—

- (a) to register social workers, that is to say, persons whose profession or occupation is described in the First Schedule; and
- (b) to conduct examinations to qualify persons for registration as social workers; and
- (c) to define and enforce ethical practice and discipline among registered persons; and
- (d) to take such steps as the Council considers necessary or desirable to enhance the status and effectiveness of the profession of social work and to promote the interests of social workers; and

- (e) to exercise any other function that may be conferred or imposed on the Council by or in terms of this Act or any other enactment.

(2) Subject to this Act and any other law, the Council shall have power to do anything specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

5 Composition of Council

(1) The Council shall consist of nine members of whom—

(a) one shall be the Director of the Government's Department of Social Welfare; and

(b) one shall be the Principal of the School of Social Work; and

(c) two shall be appointed by the Minister, of whom—

(i) one shall be a registered social worker; and

(ii) one shall be a registered legal practitioner of not less than five years standing;

and

(d) subject to sections *twelve* and *forty-four*, five shall be registered social workers elected by the registered social workers in the prescribed manner.

(2) The Minister shall give prompt notice in the *Gazette* of any appointment or election of a member in terms of this section.

6 Chairman and vice-chairman of Council

(1) There shall be a chairman and vice-chairman of the Council who shall be elected from amongst the members of the Council by members present at—

(a) the first meeting of the Council; and

(b) the next meeting held after any vacancy occurs in the office of chairman or vice-chairman, as the case may be:

Provided that the members referred to in paragraphs (a) and (b) of subsection (1) of section *five* shall not be eligible for election as chairman or vice-chairman.

(2) The vice-chairman shall exercise the functions of the chairman whenever the office of chairman is vacant or the chairman is for any reason unable to exercise his functions.

7 Terms of office and conditions of service of members

(1) Subject to this Part and section *forty-four*, an appointed or elected member shall hold office for three years.

(2) The members referred to in paragraphs (a) and (b) of subsection (1) of section *five* shall remain members for so long as they hold office as Director of the Department of Social Welfare or Principal of the School of Social Work, as the case may be.

(3) A member shall—

(a) hold office on such conditions; and

(b) be paid out of the funds of the Council such remuneration and allowances, if any;

as the Minister, in consultation with the Council, may fix for members generally.

(4) A retiring member shall be eligible for reappointment or re-election.

8 Disqualifications for appointment or election as member

No person shall be appointed or elected as a member, and no person shall be qualified to hold office as an appointed or elected member, if—

(a) he is neither a citizen of Zimbabwe nor permanently resident in Zimbabwe; or

(b) in terms of a law in force in any country, he has—

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or

(ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside;

or

(c) within the five-year period immediately before his proposed appointment or election, he has been convicted—

(i) in Zimbabwe, of an offence; or

(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would constitute an offence;

and sentenced to a term of imprisonment imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon; or

(d) within the five-year period immediately before his proposed appointment or election, he has been found guilty of improper or disgraceful conduct in terms of Part V; or

(e) in terms of any law, he has been declared to be of unsound mind, if such declaration has not been revoked.

9 Vacation of office by member

An appointed or elected member shall vacate his office and his office shall become vacant—

- (a) one month after he gives notice in writing to the Minister of his intention to resign, or on the expiry of such other period of notice as he and the Minister may agree; or
 - (b) on the date he begins to serve a sentence of imprisonment imposed without the option of a fine—
 - (i) in Zimbabwe, in respect of an offence; or
 - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would constitute an offence;
- or
- (c) if he becomes disqualified in terms of paragraph (a), (b) or (e) of section *eight* to hold office as a member; or
 - (d) if he is required in terms of section *ten* to vacate his office; or
 - (e) if he is found guilty of improper or disgraceful conduct in terms of Part V:

Provided that, where the member concerned lodges a notice with the Council of his intention to appeal against the Council's decision in accordance with section *thirty-six*, the member shall not be required to vacate his office until the final disposal or withdrawal of his appeal, whereupon the member shall forthwith vacate his office and his office shall become vacant unless the decision of the Council finding him guilty of improper or disgraceful conduct has been set aside; or

- (f) if, being a member who is required to be registered, he ceases to be registered.

10 Minister may dismiss or suspend member

(1) The Minister may require an appointed or elected member to vacate his office if the member—

- (a) has been guilty of conduct that renders him unsuitable as a member; or
- (b) has failed to comply with the conditions of his office fixed by the Minister in terms of subsection (3) of section *seven*; or
- (c) is mentally or physically incapable of efficiently carrying out his functions as a member.

(2) The Minister, on the recommendation of the Council, may require an appointed or elected member to vacate his office if the Minister is satisfied that the member has been absent without the permission of the Council from two consecutive meetings of the Council of which he was given at least seven days' notice, and that there was no just cause for the member's absence.

(3) The Minister may suspend from office any member against whom—

- (a) criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed; or
- (b) disciplinary proceedings are instituted by the Council;

and while that member is so suspended he shall not carry out any functions as a member.

11 Filling of vacancies on Council

(1) Every vacancy amongst the appointed or elected members of the Council shall be filled by the appointment or election, as the case may be, of another member in the same manner and subject to the same conditions as the member whose office has become vacant:

Provided that, where an elected member dies or vacates his office—

- (a) less than three months before the expiry of his term of office, it shall not be necessary to elect a person to replace him before the date on which his term of office would have expired;
- (b) three or more months before the expiry of his term of office, the member elected to replace him shall hold office for the remainder of that term of office.

(2) Subsection (2) of section *five* shall apply, *mutatis mutandis*, to any appointment or election in terms of this section.

12 Appointment of members in default of election

(1) If the registered social workers fail, neglect or refuse for any reason whatsoever to elect all or any of the members referred to in paragraph (d) of subsection (1) of section *five* or to fill a vacancy in terms of subsection (1) of section *eleven*, the Minister may appoint to the Council the number of members whom the registered social workers have failed, neglected or refused to elect or may appoint a member to fill the vacancy, as the case may be.

(2) The Minister shall not appoint a member in terms of subsection (1) unless that member is a registered social worker.

(3) A member appointed in terms of subsection (1) shall be deemed to have been duly elected to the Council.

13 Meetings and procedure of Council

(1) The Council shall hold its first meeting on such date and at such place as the Minister may fix and thereafter the Council shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Council shall meet at least three times in each year.

- (2) The chairman of the Council—
 - (a) may at any time convene a special meeting of the Council; and
 - (b) shall, on the written request of no fewer than four members, convene a special meeting of the Council, which meeting shall be convened for a date no later than thirty days after his receipt of the request.
- (3) At any meeting of the Council—
 - (a) the chairman or, in his absence, the vice-chairman shall preside;
 - (b) in the absence of both the chairman and the vice-chairman, the members present shall elect one of their number to preside.
- (4) Five members shall form a quorum at any meeting of the Council.
- (5) All acts, matters or things authorised or required to be done by the Council may be decided by a majority vote at a meeting of the Council at which a quorum is present.
- (6) At all meetings of the Council each member present shall have one vote on each question before the Council and, in the event of an equality of votes, the chairman shall have a casting vote in addition to a deliberative vote.

14 Validity of decisions and acts of Council

No decision or act of the Council or act done under the authority of the Council shall be invalid solely because—

- (a) the Council did not consist of the full number of members for which provision is made in section *five*; or
- (b) a disqualified person acted as a member of the Council at the time the decision was taken or act was done or authorised.

15 Funds and accounts of Council

- (1) The funds of the Council shall consist of—
 - (a) all fees and other moneys payable to the Council in terms of this Act; and
 - (b) any moneys to which the Council may become entitled; whether by way of grants, loans or otherwise;
 - (c) any other moneys and assets that may vest in or accrue to the Council, whether in the exercise of its functions or otherwise.
- (2) The accounts of the Council shall be audited at least once in each year by an auditor who is registered in terms of the Public Accountants and Auditors Act [Chapter 27:12] and appointed by the Council.

16 Expenses of Council

Subject to this Act, the expenses incurred by the Council in the exercise of its functions in terms of this Act shall be met out of the funds of the Council.

17 Annual general meetings of social workers

- (1) At least once in each year, the Council shall convene a general meeting of registered social workers.
- (2) The Council shall give reasonable notice to registered social workers of any annual meeting convened in terms of subsection (1):

Provided that an inadvertent failure to give notice to any registered social worker shall not invalidate the proceedings of an annual general meeting.

- (3) The Council shall submit to every annual general meeting convened in terms of subsection (1) a report setting out the activities of the Council since the previous annual general meeting:

Provided that this subsection shall not apply to the first general meeting held in terms of this section.

18 Committees of Council

- (1) For the better exercise of its functions, the Council may establish one or more committees and may vest in those committees such of its functions as it thinks fit:

Provided that the vesting of a function in a committee shall not divest the Council of that function in relation to any matter that has not been decided by the committee.

- (2) Where it has established a committee, the Council, subject to this section—
 - (a) shall appoint at least one member of the Council to be a member of the committee and shall designate that member or one of those members, as the case may be, to be chairman of the committee;
 - (b) may appoint persons who are not members of the Council to be members of the committee.
- (3) If the Council appoints a committee to exercise the Council's disciplinary functions under Part V, the Council shall appoint to the Committee—
 - (a) the vice-chairman of the Council, who shall be the chairman of the committee; and
 - (b) at least one registered legal practitioner, who may be the member of the Council referred to in subparagraph (ii) of paragraph (c) of subsection (1) of section *five*.
- (4) The Council shall not appoint a person to be a member of a committee if he is disqualified in terms of section *eight* from appointment as a member of the Council.
- (5) The office of a member of a committee of the Council shall terminate—

- (a) in the case of a member who is a member of the Council, upon his ceasing to be a member of the Council;
 - (b) in the case of a member who is not a member of the Council, if he would be required in terms of section *nine* to vacate his office had that section and paragraphs (a), (b) and (c) of section *eight* applied to him.
- (6) Subject to this section, members of committees of the Council shall hold office for such period and on such conditions as the Council may fix for members of committees generally.
- (7) The chairman of the Council may at any time and place convene a meeting of a committee of the Council.
- (8) The procedure to be followed at any meeting of a committee of the Council shall be fixed by the Council.

19 Minutes of proceedings of Council and committees

(1) The Council shall cause minutes of all proceedings of and decisions taken at every meeting of the Council or of a committee of the Council to be entered in books kept for the purpose.

(2) Any minutes which are referred to in subsection (1) and which purport to be signed by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting of the Council or the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

(3) The minutes kept of meetings of the Council shall be made available to any registered person at all reasonable times at the office of the Council:

Provided that this subsection shall not be construed as entitling a registered person to peruse such minutes, where the Council has resolved that it should sit as a committee.

PART III

STAFF OF COUNCIL

20 Registrar of Social Workers and other staff of Council

- (1) The Council—
- (a) shall appoint an officer to be known as the Registrar of Social Workers; and
 - (b) may appoint such other persons as it considers necessary to assist it in carrying out its functions.
- (2) Persons appointed in terms of subsection (1) shall hold office on such terms and conditions and at such remuneration as the Council may determine from time to time.

21 Functions of Registrar

The functions of the Registrar shall be—

- (a) to be the secretary to the Council, in which connection he shall, on instructions from the chairman of the Council, convene meetings of the Council and any committee thereof and maintain the records of any such meetings; and
- (b) to carry out other duties imposed on him by or in terms of this Act or by the Council.

PART IV

REGISTER AND REGISTRATION

22 Register of Social Workers

- (1) The Council shall establish and maintain a register to be known as the Register of Social Workers.
- (2) The Registrar shall—
- (a) enter in the Register, in relation to a registered social worker, his name, address and date of first registration and such other particulars as the Council may determine from time to time; and
 - (b) make in the Register any necessary alterations in the name, address or other particulars of a registered social worker; and
 - (c) delete from the Register the name of a registered social worker who dies; and
 - (d) when required to do so by or under this Act—
 - (i) note in the Register the suspension from practice of a registered social worker; and
 - (ii) delete from the Register the registration of a registered social worker;and
 - (e) generally, comply with this Act in connection with the Register.
- (3) Whenever the Registrar deletes the name of a registered person from the Register or notes in the Register the suspension from practice of a registered person, he shall—
- (a) record in the Register his reasons for doing so; and
 - (b) where possible, notify the person concerned in writing that he has done so.
- (4) The Register shall be kept at the office of the Council and shall be open to inspection during office hours by any person on payment of the prescribed fee, if any.

23 Qualifications for registration

(1) Subject to this Act, a person shall be qualified to be registered if he is a member of a class specified in the Third Schedule.

(2) The Minister, on the recommendation of the Council, may by statutory instrument amend the Third Schedule so as to alter any qualification specified in it, or add any additional qualification to it, or delete any qualification from it.

24 Application for registration

(1) Any person who wishes to be registered may apply to the Registrar in the prescribed form and shall submit with his application—

- (a) a certificate of any qualification on which he relies for registration or a certified copy thereof; and
- (b) if he is registered as a social worker outside Zimbabwe in a country where practical experience or training is required before such registration—
 - (i) evidence that he has gained such experience or has undergone such training; or
 - (ii) a certificate of registration in that country or a certified copy thereof;and
- (c) such evidence of identity, good character and reputation, and of the authenticity and validity of any certificate or other document submitted, as the Council may reasonably require; and
- (d) the prescribed fee, if any.

(2) When the Registrar is satisfied that an application for registration conforms to the requirements of subsection (1), he shall forthwith refer it, together with any report he may wish to make on it, to the Council.

25 Grant or refusal of application for registration

(1) As soon as possible after receiving an application referred to it in terms of subsection (2) of section *twenty-four*, the Council shall consider the application and if—

- (a) the Council is satisfied that the applicant possesses the qualifications for registration and is a fit and proper person to be registered; and
 - (b) the applicant's registration has not previously been cancelled or suspended in terms of this Act;
- the Council shall grant the application and direct the Registrar to register the applicant as a social worker.

(2) In determining, for the purposes of subsection (1), whether an applicant is a fit and proper person to be registered, the Council may take into account—

- (a) his physical or mental health; and
- (b) his character and reputation; and
- (c) any conduct of his which, if he had been registered, would have constituted improper or disgraceful conduct:

Provided that, before refusing registration in terms of this paragraph, the Council shall hold an inquiry in terms of Part V and that Part shall apply, *mutatis mutandis*, as if the applicant were registered.

(3) If the Council decides that, *prima facie*, it should reject an application for registration, the Council shall direct the Registrar to send the applicant a registered letter notifying him of its decision and the reasons for it and advising him that within thirty days he may lodge a written objection with the Council against its decision.

(4) If an applicant—

- (a) fails to lodge an objection with the Council within the period stipulated in subsection (3); or
- (b) having lodged an objection, withdraws or abandons it;

the Council shall reject his application and direct the Registrar to notify him accordingly and to advise him of his rights under section *thirty-six*.

(5) If an applicant lodges an objection within the period stipulated in subsection (3), the Council shall give him an opportunity, by himself or represented by a legal practitioner, to show cause why he should be registered, and if, after giving him that opportunity, the Council decides to reject his application, the Council shall forthwith—

- (a) notify the applicant or his legal representative, if any, of its decision and the reasons for it; and
- (b) advise the applicant or his legal representative, if any, of the applicant's rights under section *thirty-six*.

(6) When granting an application under subsection (1), the Council may fix conditions or limitations subject to which the applicant is to practise the profession of social work, but if the Council does so subsections (3), (4) and (5) shall apply, *mutatis mutandis*, in regard to the application.

26 Certificate of registration

(1) Whenever the Registrar registers a person in terms of this Part, he shall issue him with a certificate of registration in the form prescribed.

(2) If the Council has fixed conditions or limitations on the registration of any person, they shall be endorsed on the registration certificate issued to him under subsection (1).

(3) The Registrar may, on application, issue to a registered person a duplicate certificate of registration—

- (a) if he is satisfied as to the applicant's identity; and
- (b) on production by the applicant of an affidavit certifying that the certificate of registration has been lost or destroyed; and
- (c) on payment by the applicant of the prescribed fee, if any.

27 Duration and renewal of registration

(1) Unless it is earlier cancelled or suspended, registration under this Act shall be valid for such period as may be prescribed and may be renewed by the Council before it expires.

(2) An application for the renewal of registration shall be made in such form and manner as may be prescribed and shall be accompanied by such fee as may be prescribed.

(3) If, on considering an application for the renewal of registration, the Council is of the opinion that—

- (a) any conditions or limitations subject to which the applicant was registered have not been observed; or
- (b) it would not be in the interest of the public generally or any section of the public for the applicant's registration to be renewed;

the Council shall direct the Registrar to give written notice of its opinion to the applicant.

(4) A notice in terms of subsection (3) shall—

- (a) specify the grounds on which the Council's opinion is based; and
- (b) state that the applicant may, within one month after receiving the notice, submit to the Registrar any comments he may wish to put forward in connection with the matter.

(5) If—

- (a) no comments are submitted in terms of paragraph (b) of subsection (4); or
- (b) comments are submitted in terms of paragraph (b) of subsection (4) but the Council, after considering them, is of the opinion, for any reason specified in subsection (3), that the applicant's registration concerned should not be renewed;

the Council may direct the Registrar not to renew the applicant's registration.

(6) On receiving a direction in terms of subsection (5), the Registrar shall make the appropriate entries in the Register.

(7) The Council shall not refuse to renew a person's registration under this section on a ground referred to in paragraph (a), (b), (c) or (d) of subsection (1) of section *thirty-one* unless it has held an inquiry into the matter in terms of Part V.

28 Offences in connection with Register, etc.

Any person who—

- (a) makes or causes to be made an unauthorised entry or alteration in, or deletion from, the Register or on a certificate of registration; or
- (b) by means of a false representation or the concealment of a material fact, procures or attempts to procure registration or a certificate of registration for himself or another person; or
- (c) makes or causes to be made in connection with an application for registration a false declaration in a document used for the purpose of establishing his identity or qualifications; or
- (d) wilfully destroys or injures or renders illegible or causes to be destroyed, injured or rendered illegible an entry in the Register; or
- (e) without the permission of the holder, wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible a certificate of registration; or
- (f) forges or utters, knowing the same to be forged, a document purporting to be a certificate of registration;

shall be guilty of an offence and liable to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

PART V

CANCELLATION OF REGISTRATION, DISCIPLINARY INQUIRIES AND PENALTIES

29 Cancellation of registration

Without derogation from subsection (1) of section *thirty-two*, the Council—

- (a) shall direct the Registrar to cancel the registration of any social worker who has died or who, in the Council's opinion, has become mentally or physically disabled to such an extent that it would be contrary to the public interest for him to continue to practise as a social worker; or
- (b) may direct the Registrar to cancel the registration of any social worker who applies to the Registrar in writing for his registration to be cancelled, if the Council is satisfied that no disciplinary or criminal proceedings are being, or are likely to be, instituted against the applicant in connection with the practice of his profession;

- (c) may direct the Registrar to cancel any entry in the Register which is proved to the satisfaction of the Council to have been made in error, whether the error arose through fraud, false representation, the concealment of a material fact or in any other manner.

30 Return of certificate of registration on cancellation of registration

(1) A person whose registration is cancelled in terms of section *twenty-nine* or any other provision of this Act shall return his certificate of registration to the Registrar within thirty days after being requested in writing to do so:

Provided that, by written notice to the person concerned, the Council may dispense with this requirement if it is satisfied that he has lost his certificate or that the certificate has been destroyed.

(2) Any person who, without lawful excuse, fails to comply with subsection (1) shall be guilty of an offence and liable to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

31 Inquiries by Council

(1) Subject to this section, the Council may hold an inquiry into an allegation that a registered social worker—

- (a) before his registration, was guilty of conduct which, if he had been registered, would have constituted improper or disgraceful conduct; or
- (b) after his registration, has been guilty of improper or disgraceful conduct; or
- (c) is grossly incompetent or has performed any act relating to the practice of social work in a grossly incompetent manner; or
- (d) has become mentally or physically disabled to such an extent that it would be contrary to the public interest to permit him to continue to practise as a social worker.

(2) Before exercising its powers under subsection (1), the Council shall serve upon the person concerned a notice setting out the allegations against him and, before concluding the inquiry, the Council shall afford the person concerned a reasonable opportunity of being heard, either by himself or, if he so wishes, by a legal representative:

Provided that, where the person concerned is incapable of representing himself as a result of mental impairment, the Council may apply to the High Court for the appointment of a curator *ad litem* and the notice referred to in this subsection shall be served on that curator.

(3) The powers, rights and privileges of the Council in an inquiry referred to in subsection (1) shall be the same as those conferred upon a commissioner by the Commissions of Inquiry Act [*Chapter 10:07*], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15 to 19 of that Act, shall apply, *mutatis mutandis*, in relation to an inquiry and to a person summoned to give evidence or giving evidence at an inquiry.

(4) In any inquiry held in terms of subsection (1), the Council shall record the proceedings and any evidence heard by it and the decision made by it and the reasons for its decision.

32 Exercise of powers by Council after inquiry

(1) If at the conclusion of an inquiry held in terms of section *thirty-one* the Council decides that the registered person concerned has been guilty of conduct referred to in paragraph (a) or (b) of subsection (1) of section *thirty-one* or, as the case may be, that he is grossly incompetent, or has performed any act relating to the practice of social work in a grossly incompetent manner, or has become mentally or physically disabled to such an extent that it would be contrary to the public interest to permit him to continue to practise, the Council may do one or more of the following—

- (a) direct the Registrar to cancel or not to renew the registered person's registration;
- (b) order the registered person to be suspended for a specified period from practising as a social worker;
- (c) impose such conditions or limitations as it thinks fit on the registered person's practice as a social worker;
- (d) order the registered person to pay a penalty not exceeding five thousand dollars, which penalty shall be payable to the Council;
- (e) order the registered person to pay any costs or expenses of, and incidental to, the inquiry;
- (f) censure the registered person;
- (g) caution the registered person and postpone for not more than three years any further action against him on one or more conditions as to his future conduct, including the conduct or nature of his practice during that period.

(2) If at any time the Council is satisfied that—

- (a) a registered person has contravened or failed to comply with any condition or limitation which the Council has imposed on his practice in terms of paragraph (c) of subsection (1); or
- (b) during any postponement in terms of paragraph (g) of subsection (1), a registered person has not complied with any condition imposed in terms of that paragraph;

the Council, after giving reasonable notice to the registered person concerned, may decide further to do one or more of the things specified in subsection (1).

(3) The Council may extend, withdraw or in any manner amend any order made in terms of paragraph (b) or (c) of subsection (1).

(4) A person who has been suspended in terms of paragraph (b) of subsection (1) shall be disqualified from practising as a social worker and his registration shall be deemed to be cancelled until the period of suspension has expired:

Provided that section *thirty* shall not apply to a person who is so suspended.

33 Exercise of disciplinary powers on conviction of offence

(1) A registered person who has been convicted of an offence by a court inside or outside Zimbabwe, whether before or after the date of his registration, shall be liable to be dealt with by the Council in accordance with this Part if the Council is of the opinion that the offence constitutes improper or disgraceful conduct.

(2) If the Council thinks fit, on proof before it of a conviction referred to in subsection (1), the Council may deal with the convicted person in accordance with section *thirty-two* without hearing further evidence:

Provided that the convicted person shall be afforded an opportunity of tendering, in writing or in person or by his legal representative, as he may elect, an explanation to the Council in extenuation of his conduct.

(3) If, after the termination of proceedings before a court in Zimbabwe, the Council requests that a record of the proceedings, or part of the record, be supplied to it on the grounds that it is of direct interest to the Council in the exercise of its functions under this Act, the registrar or clerk of the court shall transmit to the Council a copy of the record or of such part of the record as is material.

34 Improper or disgraceful conduct

The Council may make by-laws in terms of section *forty-three* prescribing what constitutes improper or disgraceful conduct:

Provided that any such by-laws shall not be deemed to limit the Council's general power to inquire into allegations of improper or disgraceful conduct not covered by the by-laws and to impose any penalty under this Part on any person guilty of such conduct.

35 Recovery of costs and penalties by Council

The Council may, by proceedings in a competent court, recover any costs, expenses or penalty that a person has been ordered to pay in terms of this Part.

PART VI

GENERAL

36 Appeals

(1) Subject to this section, any person who is aggrieved by any decision, direction, order or action of the Council under this Act may appeal against it to the Administrative Court.

(2) Notice of an appeal under subsection (1)—

(a) shall be in writing, specifying in detail the grounds of the appeal; and

(b) shall be lodged with the registrar of the Administrative Court and the Registrar within thirty days from the date on which the appellant was given notice of the decision, direction, order or action appealed against.

(3) The Registrar shall furnish the Council with copies of any notice of appeal lodged with him in terms of subsection (1).

(4) On an appeal under this section, the Administrative Court may confirm, vary or set aside the decision, direction, order or action appealed against or give such other decision as, in its opinion, the Council ought to have given, and may make such order as to costs as it thinks fit:

Provided that—

(i) a decision, direction, order or action of the Council following an inquiry in terms of section *thirty-one* shall not be set aside solely because of an irregularity which did not embarrass or prejudice the appellant in answering a charge or in the conduct of his defence;

(ii) in an appeal against a decision of the Council under section *thirty-two*, the Administrative Court shall not substitute a penalty more severe than that imposed by the Council.

(5) The Council and the Registrar shall comply with any decision of the Administrative Court made in terms of this section.

(6) The Administrative Court Act [*Chapter 7:07*] shall apply in relation to the composition, procedure and powers of the Administrative Court in an appeal under this section.

37 Restoration to Register

(1) Upon written application by a person whose registration has been cancelled or suspended, the Council may—

- (a) revoke the cancellation; or
- (b) notwithstanding that the period of suspension has not expired, terminate the suspension;

as the case may be, and may impose such conditions on the cancellation or termination as the Council thinks fit.

(2) Where the Council has acted in terms of subsection (1), the Registrar shall restore to the Register the name of the person concerned and shall enter in the Register any conditions imposed by the Council in terms of that subsection.

38 Limitation of actions against Council, its members and staff

(1) No action shall lie against the Council or any member of the Council or any committee of the Council, or any officer or employee of the Council in respect of anything done in good faith and without negligence in accordance with this Act.

(2) Without derogation from the generality of subsection (1), the Council shall not be liable for any loss of earnings occasioned to a person as a result of the *bona fide* imposition of a penalty upon him in accordance with Part V.

39 Offences by or in respect of unregistered persons

Subject to section *forty*, any person who is not registered as a social worker and who—

- (a) pretends to be a registered social worker; or
- (b) by any means whatsoever describes himself as or holds himself out to be a registered social worker; or
- (c) in any manner whatsoever uses any name, title, description, badge or symbol which indicates or is calculated to lead a person to assume that he is a registered social worker;

shall be guilty of an offence and liable to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

40 Special provisions relating to companies and partnerships

A company or partnership may practise or describe itself as or allow itself to be held out as a registered social worker if—

- (a) the activities of the company or partnership, in so far as they relate to social work, are under the direct control and management of a principal who
 - (i) is a registered social worker; and
 - (ii) does not act at the same time in a similar capacity for any other company or partnership or on his own behalf;

and

- (b) in every premises where the company or partnership carries on activities relating to social work, the activities are either—
 - (i) personally carried on by the principal referred to in paragraph (a); or
 - (ii) carried on, under the direction of the principal referred to in paragraph (a), by an assistant who is a registered social worker.

41 Notice of registration, cancellation or suspension

(1) Subject to subsection (2), the Council shall cause notice to be given in the *Gazette* and may give notice to all registered social workers of—

- (a) the registration of any social worker; and
- (b) the cancellation or suspension of any person's registration.

(2) No notice in terms of subsection (1) shall be given of the cancellation or suspension of a person's registration until the time for noting an appeal against the cancellation or suspension has elapsed or, if any such appeal has been lodged, until it is withdrawn or abandoned or the cancellation or suspension has been confirmed on appeal.

42 Evidence

(1) The Register shall be *prima facie* evidence of all matters required or authorised by this Act to be entered in it.

(2) A certificate purporting to be signed by the Registrar and stating that—

- (a) a person's name appears in the Register, shall be *prima facie* evidence that the person is a registered social worker;
- (b) a person's name has been deleted from or does not appear in the Register, shall be *prima facie* evidence that the person is not a registered social worker;
- (c) a registered social worker has been suspended from practice as such for a period specified in the certificate, shall be *prima facie* evidence that the person has been suspended from practice for that period.

(3) A certificate referred to in subsection (2) shall be admissible in any proceedings on its production by any person.

(4) A document purporting to be—

(a) a copy of an entry in the Register; or

(b) a copy of a document in the custody of the Registrar; or

(c) an extract from the Register or from a document in the custody of the Registrar;

and purporting to be certified by the Registrar, shall be admissible in any proceedings on its production by any person as *prima facie* proof of the facts stated therein.

43 By-laws

(1) Subject to subsection (3), the Council may make by-laws prescribing all matters which by this Act are required or permitted to be prescribed or which, in the Council's opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act or the functions of the Council.

(2) By-laws made in terms of subsection (1) may provide for—

(a) a code of ethics to be observed by registered persons;

(b) fees payable in respect of applications considered, certificates issued and any other thing done for the purposes of this Act;

(c) the election of members in terms of section *five*;

(d) the fees to be paid for the issue of duplicate certificates of registration;

(e) requiring registered social workers to notify the Council of changes of address;

(f) the form of any document issued or used for the purposes of this Act.

(3) By-laws made in terms of subsection (1) shall not have effect until they have been approved by the Minister and published in the *Gazette*.

44 Transitional provision: formation of first Council

(1) For the purpose of establishing the first Council—

(a) the Minister shall appoint to the Council any person who has practised as a social worker to be the member referred to in subparagraph (i) of paragraph (c) of subsection (1) of section *five*; and

(b) the Minister shall appoint to the Council five other persons who have practised as social workers, and those persons shall be deemed to have been elected in terms of paragraph (d) of subsection (1) of section *five* with effect from the date of their appointment.

(2) The Minister shall select five of the members appointed by him in terms of paragraph (b) of subsection (1) who shall hold office for a period of two years.

FIRST SCHEDULE (Section 4(1))

SOCIAL WORK

The profession of social work promotes the welfare of human beings and the betterment of human society through the development and systematic application of scientific knowledge of human and societal activities and social services. Professional social workers aim at satisfying the needs and aspirations of individuals and groups at national and international level, while constantly bearing in mind the need for promoting social policy. Their techniques include psychotherapeutic case-work, social-dynamic group-work and planned community intervention.

The activities of professional social workers include performing the functions of probation officers in terms of the Children's Act [*Chapter 5:06*] and any other enactment.

SECOND SCHEDULE (Section 4(2))

POWERS OF COUNCIL

1. To acquire premises necessary or convenient for the exercise of its functions and, for that purpose, to purchase, hire or otherwise acquire immovable property and to construct buildings.
2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of the Council's functions.
3. To maintain, alter or improve its property.
4. To sell, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with any property which is not required for the Council's purposes, for such consideration, if any, as the Council may determine.
5. To make contracts and enter into suretyships or give guarantees, and to modify or rescind such contracts or rescind such suretyships or guarantees.
6. To draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments.
7. To raise or borrow money in such manner as the Council thinks fit.

8. To invest, in such manner and on such security, if any, as the Council may determine, any of its funds which are not immediately required and to vary or realise any investments so made.
9. To provide scholarships, bursaries, prizes or grants for the training of social workers or students of social work or for any purpose incidental to the promotion or study of social work.
10. To insure against losses, damages, risks and liabilities which the Council may incur.
11. To use any part of its funds to pay legal costs incurred by the Council or any member in carrying out the Council's functions.
12. To provide benefits for its employees and their dependants on the employees' retirement, resignation, discharge or other termination of service or in the event of their sickness or injury, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for its employees and their dependants any or all the benefits referred to in this paragraph.
13. To do anything for the purpose of improving the skill, knowledge or usefulness of its employees, and in that connection to provide or assist other persons in providing facilities for training, education and research.
14. Generally, to do anything that is calculated to facilitate or is incidental or conducive to the performance of the Council's functions under this Act or any other enactment.

THIRD SCHEDULE (Section 23)

PERSONS QUALIFIED FOR REGISTRATION

1. A person who—
 - (a) is of or over the age of twenty-one years; and
 - (b) is ordinarily resident in Zimbabwe; and
 - (c) has obtained—
 - (i) a Bachelor of Social Work degree from the University of Zimbabwe; or
 - (ii) a Diploma in Social Work from the University of Zimbabwe.
2. A person who—
 - (a) is of or over the age of twenty-one years; and
 - (b) is ordinarily resident in Zimbabwe; and
 - (c) has obtained a degree or diploma which, in the Council's opinion, is equivalent to a degree or diploma referred to in subparagraph (c) of paragraph 1; and
 - (d) has practised as a social worker—
 - (i) in Zimbabwe for not less than one year; or
 - (ii) outside Zimbabwe, for not less than two years.
3. A person who—
 - (a) is of or over the age of twenty-five years; and
 - (b) is ordinarily resident in Zimbabwe; and
 - (c) has practised as a social worker in Zimbabwe for not less than five years; and
 - (d) has undergone such training or gained such practical experience as, in the Council's opinion, qualifies the person for registration.