

House of Representatives

Supplementary Order Paper

Tuesday, 12 February 2019

Social Workers Registration Legislation Bill

Proposed amendments

Key:

- **this is inserted text**
- **~~this is deleted text~~**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- NOT have official status in terms of unamended text
- NOT have the status of an as-reported version of the Bill.

Explanatory note

This Supplementary Order Paper amends the Social Worker’s Registration Act 2003 to include in it a scopes of practice model for social workers based largely on the scopes of practice model for health practitioners in the Health Practitioners Competence Assurance Act 2003. Most of the amendments relating to scopes of practice will come into force 2 years after the date of enactment of the Bill. *New sections 38B, 47A, and 65A* have been reworked. Some minor amendments are also made to the Bill, for example, to correct typographical errors and to update terminology.

Regulatory impact assessment

The Ministry of Social Development updated its regulatory impact statement dated 1 May 2017 on 26 July 2018 to help inform the new policy decisions taken by the Government relating to the contents of this SOP.

A copy of the updated regulatory impact statement can be found at—

- <http://www.treasury.govt.nz/publications/informationreleases/ris>
- <https://www.msd.govt.nz/about-msd-and-our-work/work-programmes/social-worker-registration/index.html>

The Honourable Carmel Sepuloni, in Committee, to propose the amendments shown in the following document.

Hon Carmel Sepuloni

Social Workers Registration Legislation Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Social Workers Registration Legislation Act **2017**.

2 Commencement

- (1) **Sections 4, 5A, 6B, 7, 8, 9, 9A, 9AB, 9AD, 9AF, 9AH, 9C, 11C, 11E, 11F, 13, 15A, 16A, 17B, 18A, 19B, 19C, 20A, 20C, 22A, 22B, 23A, 23B, 25A, 37A, 38A, 38B, 39A, 43B, 47A, 48B, 51A, 52A, 53A, 59B, 61F, 62B, 63A, 65(2), and Part 2 of Schedule 1** come into force on the day that is 2 years after the date on which this Act receives the Royal assent.
- (2) **Section 10** comes into force on the day that is 5 years after the date on which this Act receives the Royal assent.
- (2A) **Section 55** comes into force on the day that is 3 months after the date on which this Act receives the Royal assent.
- (3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

Part 1 Amendments to Social Workers Registration Act 2003

3 Principal Act

This Part amends the Social Workers Registration Act 2003 (the **principal Act**).

4 Section 3 amended (Purpose)

- (1) In section 3(b), after “New Zealand”, insert “and determine their scopes of practice”.
- (2) Repeal section 3(c).

5 Section 4 amended (Interpretation)

- (1) In section 4, repeal the definitions of **particular condition** and **registered social worker**.
- (2) In section 4, insert in ~~its~~ their appropriate alphabetical order:

prescribed qualification means a qualification prescribed by the Board under **section 5B**

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 5A**

social work service means a service provided for the purpose of assessing, supporting, improving, or protecting the well-being of individuals, families, groups, or communities

social worker means a person who is registered under this Act as a social worker

5A Section 4 amended (Interpretation)

- (1) In section 4, insert in its appropriate alphabetical order:

practise as a social worker means to do so within the person’s individual scope of practice

- (2) In section 4, repeal the definition of **recognised New Zealand qualification**.

- (3) In section 4, replace the definition of **scope of practice** with:

scope of practice,—

(a) 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 5A**:

(b) in relation to an individual social worker, means 1 or more social work services (described in a scope of practice under **section 5A**) that the social worker is permitted to perform or not permitted to perform by an

authorisation under **section 8A**, subject to any condition (including any applicable general condition) imposed by the Board or the Tribunal

6 New section 4A inserted (Transitional, savings, and related provisions)

After section 4, insert:

4A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

Registration and scopes of practice

6A New Part 1A inserted

After section 5, insert:

Part 1A
Scopes of practice for social work profession and prescribed qualifications

5A 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.
- (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:
 - (d) by reference to individual, interpersonal, or community needs to be alleviated.

5B Prescribed qualifications

- (1) The Board must, by notice in the *Gazette*, prescribe the qualifications for each scope of practice that the Board describes under **section 5A**.
- (2) When prescribing qualifications, the Board must be guided by the following principles:
 - (a) a qualification (either on its own or together with 1 or more other prescribed qualifications) must be necessary to protect the public:
 - (b) the number and types of qualifications prescribed 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) prescribed for a scope of practice must not impose undue costs on persons seeking to be registered as social workers or the public.

5C Provisions relating to sections 5A and 5B

- (1) The Board may at any time, by notice in the *Gazette*, amend, revoke, or replace a notice under **section 5A or 5B**.
- (2) The amendment, revocation, or replacement of a notice under **section 5B** does not affect the registration of a social worker who qualified to practise under the notice before it was amended, revoked, or replaced.
- (3) Before the Board publishes a notice under **section 5A or 5B** or under this section, it must have consulted 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; and
- (b) persons who the Board considers are able to represent the views of employers of social workers; and
- (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 an Internet site; 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 photocopy of the notice for a reasonable fee.
- (5) A notice published under **section 5A or 5B** or this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

6B Part 2 heading replaced

Replace the Part 2 heading with:

Part 2
Registration, authorisation to practise within scope of practice, and practising certificates

7 Cross-heading above section 6 replaced

Replace the cross-heading above section 6 with:

Social workers required to be registered **Key provisions**

8 New sections ~~6AAA~~ 6AA and 6AAB inserted

(1) Before section 6, insert:

~~6AAA~~6AA Unregistered person must not claim to be social worker

- (1) A person may use names, words, titles, initials, abbreviations, or descriptions stating or implying that ~~he or she is~~ they are a social worker only if ~~he or she is~~ they are registered as a social worker under this Act (and ~~his or her~~ their registration is not suspended).
- (2) No person may claim to be practising as a social worker, or state or do anything that is calculated to suggest that ~~he or she practises or is~~ they practise or are willing to practise as a social worker, unless ~~he or she~~ —
 - (a) ~~is~~ they are registered as a social worker under this Act (and ~~his or her~~ their registration is not suspended); and
 - (b) they holds a current practising certificate as a social worker (and their practising certificate is not suspended).
- (3) No person may make an express or implied statement about another person that the other person is prohibited by this section from making about ~~himself or herself~~ themselves.
- (4) The prohibitions under this section do not apply to a person who states that ~~he or she is~~ they are willing to practise as a social worker for the purpose of seeking employment if the person would, on obtaining employment, be entitled to —
 - (a) be registered as a social worker; and
 - (b) hold a current practising certificate as a social worker.

~~6AAB~~ Definition of practising as a social worker

- (1) A person is ~~practising as a social worker~~ for the purposes of this Act (and ~~practises and willing to practise as a social worker~~ have corresponding meanings) if that person —
 - (a) ~~is employed or engaged by another person in a position that is described using the words “social worker” or “social work”:~~
 - (b) ~~in undertaking any work for gain or reward, holds himself or herself out to be a social worker:~~
 - (c) ~~holds a position, in a voluntary capacity or as a member of any body or organisation, that is described using the words “social worker” or “social work”:~~

- ~~(d) holds a position or performs a role described in an enactment using the words “social worker” or “social work”;~~
- ~~(e) undertakes restricted work;~~
- ~~(f) in any other way claims to be a social worker.~~
- (2) A person (A) is not practising as a social worker—
 - ~~(a) if A is employed in, engaged in, or holds a position that is described using the words “social worker” and—
 - ~~(i) being a social worker is not specified as a requirement for the position and is instead expressed as an alternative qualification to 1 or more other qualifications for the position; and~~
 - ~~(ii) A is not and does not hold himself or herself out to be a social worker and holds at least 1 of the alternative qualifications; or~~~~
 - ~~(b) if an enactment describes a position or role using the words “social worker” and—
 - ~~(i) the enactment specifies that the position or role may be held or performed by either a social worker or another type of person (who is not a social worker); and~~
 - ~~(ii) A is not and does not hold himself or herself out to be a social worker and is that other type of person.~~~~
- (3) In this section,—
 - qualifications** is not limited to formal qualifications
 - restricted work** means any task or activity that is described in an enactment with words to the effect that it can be undertaken only by a social worker.

6AAB Key requirements for practising as social worker

- (1) No person may practise as a social worker unless—
 - (a) they are registered as a social worker (and their registration is not suspended); and
 - (b) they practise within the terms of their individual scope of practice (authorised under **section 8A**), including complying with any conditions to which their practice is subject; and
 - (c) they hold a current practising certificate issued by the Board (and their practising certificate is not suspended).
- (2) Nothing in this section applies to a social worker who performs social work services—
 - (a) in an emergency; or
 - (b) in the course of an examination, an assessment, or a competence review required or ordered by the Board.

8A Section 6 amended (Entitlement to registration of New Zealand-qualified social workers)

In section 6, insert as subsection (2):

- (2) **Subsection (1)(a)** applies to a person only if the Board has received information about that person and that information raises doubt about their competence to practise as a social worker.

9 Section 6 amended (Entitlement to registration of New Zealand-qualified social workers)

(1AA) In the heading to section 6, replace “social workers” with “applicants”.

(1AA) Replace the heading to section 6 with “**Entitlement of New Zealand-qualified applicants to registration within scope of practice**”.

(1AB) In section 6(1), replace “recognised New Zealand qualification” with “prescribed qualification for a scope of practice”.

(1AC) In section 6(1), after “entitled to be registered”, insert “within that scope of practice”.

(1) In section 6, insert as subsection (2):

- (2) **Subsection (1)(a)** applies to a person only if—
- (a) the Board has received information about that person; and
 - (b) the information raises doubt about his or her ~~their~~ competence to practise as a social worker.

9A Section 7 amended (Entitlement to registration of overseas-qualified social workers)

In the heading to section 7, replace “social workers” with “applicants”.

(1) Replace the heading to section 7 with “**Entitlement of overseas-qualified applicants to registration within scope of practice**”.

(2) In section 7, replace “recognised New Zealand qualification” with “prescribed qualification for a scope of practice” in each place.

(3) In section 7, after “entitled to be registered”, insert “within that scope of practice”.

9AB Section 8 replaced (Applications for registration)

Replace section 8 with:

8 Applications for registration and authorisation to practise within scope of practice of social work profession

(1) This section applies to every application by—

- (a) a person who applies to be registered under section 6 or 7 as a social worker authorised to practise within a scope of practice of the social work profession notified under **section 5A**; and

- (b) a social worker who applies for a change in the authorisation of their existing individual scope of practice.
- (2) Every application to which this section applies must be made to the Registrar and must—
- (a) be made in a form, and contain the information, that is required by the Board; and
- (b) be accompanied by—
- (i) an indication of—
- (A) the scope of practice of the profession that the applicant proposes to be authorised to practise within and the 1 or more social work services the applicant seeks to be permitted to perform under that scope of practice; or
- (B) the change the social worker wishes to have made to their existing individual scope of practice; and
- (ii) any evidence in support of the application that is required by the Board; and
- (iii) the fee (if any) set by the Board.
- (3) When the Registrar receives a valid application that complies with this section, the Registrar must promptly submit the application to the Board for its consideration.
- (4) However, if any fine imposed on a social worker under section 83 remains unpaid, or any costs or expenses payable under an order made under that section remain unpaid, the Registrar may decline to submit the application to the Board until the fine or costs or expenses are paid.
- (5) If the Registrar declines to submit an application to the Board under **subsection (4)**, the social worker may apply in writing to the Board requesting a review of the Registrar’s decision, and the Board must, as soon as practicable, review the decision and either confirm or revoke it.
- 8A Board may authorise individual scope of practice for applicant or change to individual scope of practice for social worker**
- (1) The Board must promptly consider applications received from the Registrar.
- (2) The Board may authorise an applicant to practise within a scope of practice of the social work profession.
- (3) The contents of an authorisation (together with any applicable general conditions) form the applicant’s individual scope of practice (*see section 8B*).
- (4) The Board may authorise a change to the existing individual scope of practice of a social worker.
- (5) If an applicant (including a social worker applying for a change in their individual scope of practice) is, under **section 8E(4)**, entitled to an opportunity to

make written submissions and be heard, an authorisation under this section may be determined only after the applicant has had that opportunity.

8B Contents of authorisation of individual scope of practice

- (1) An authorisation under **section 8A(2) and (3)** 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.
- (2) An authorisation under **section 8A(4)** 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:
 - (c) the cancellation or variation of an existing condition:
 - (d) the inclusion of a new condition.
- (3) Any condition included in an authorisation must be of a kind that the Board considers is required to ensure the competent practice of the applicant and, without limitation, may include any of the following:
- (a) a condition that the applicant practise subject to the supervision of 1 or more nominated social workers or social workers of a stated class:
 - (b) a condition that the applicant practise subject to the oversight of 1 or more nominated social workers or social workers of a stated class:
 - (c) a condition that the applicant not perform any task of a stated kind or that the applicant perform that task only in stated circumstances:
 - (d) a condition that the applicant practise only in a stated capacity, for example, as an employee of a nominated person or a person of a stated class:
 - (e) a condition that the applicant practise in association with 1 or more nominated persons or persons of a stated class:
 - (f) a condition that the applicant practise only for a specified period:
 - (g) a condition that the applicant attain 1 or more further stated qualifications or attain further experience of a stated kind:
 - (h) a condition that the Board believes on reasonable grounds to be necessary to protect the safety of the public.

8C Assessment of social workers practising under supervision

If an authorisation includes a condition referred to in **section 8B(3)(a)** that the applicant practise under supervision, the authorisation may also include the following conditions:

- (a) that 1 or more of the supervising social workers assess and report to the Board at specified intervals (whether generally or in relation to any particular case or class of case) on the performance of the applicant; and
- (b) that each of those reports set out a recommendation as to whether the condition requiring the applicant to practise subject to supervision should continue to apply.

8D Board may require applicant to take and pass examination or assessment

- (1) For the purpose of considering an application under **section 8**, the Board may require the applicant to take and pass an examination or undergo and pass an assessment that is set or recognised by the Board, to enable the Board to assess either or both of the following:
 - (a) whether the applicant is competent to practise, in New Zealand, all or some of the social work services described in the scope of practice of the profession in respect of which the applicant seeks to be, or agrees to be, registered;
 - (b) whether the applicant's ability to communicate in and comprehend English is sufficient to protect the safety of the public.
- (2) A requirement under **subsection (1)** is part of the process of considering the application and must not be taken as a proposal to decline the application.

8E Board must inform applicant that it proposes to depart from indicated scope of practice or to decline application

- (1) In assessing an application under **section 8**, the Board must consider whether the applicant is qualified and competent to practise all or some of the social work services described in the applicant's indicated scope of practice of the profession.
- (2) If the Board proposes to authorise an applicant to practise in any way that differs from the indication given by the applicant, the Board must inform the applicant in writing of its reasons for proposing to do so.
- (3) If the Board proposes to decline the application, the Board must inform the applicant in writing of its reasons for proposing to do so.
- (4) When the Board informs an applicant that it proposes to authorise them to practise in any way that differs from the indication given by the applicant or to decline their application, it must also give them—
 - (a) a copy of any written information on which the Board is relying; and
 - (b) a written summary of any other information on which the Board is relying; and
 - (c) a reasonable opportunity to make written submissions and be heard, either personally or by their representative.
- (5) **Subsection (4)(a) and (b)** is subject to section 142.

8F Decisions of Board on registration

- (1) If the Board authorises an individual scope of practice for an applicant who meets the criteria in section 6, 7, **14**, or 15 (as relevant), the applicant is entitled to be registered as a social worker, and the Registrar must promptly register the applicant by entering in the Register the information about the applicant required under section 123.
- (2) The Registrar must promptly notify an applicant who has been registered of the fact of their registration, the contents of the authorisation by the Board (and any applicable general conditions) that form their individual scope of practice, and the reasons for any condition that has been included.
- (3) If the Board decides that an applicant's registration is to be provisional or temporary, the Registrar must also notify them of—
 - (a) the fact that it is provisional or temporary; and
 - (b) the duration of the registration; and
 - (c) the Board's reasons.
- (4) If the Board, after considering an application for registration, decides that the applicant should not be registered, the Registrar must promptly notify the applicant of the decision and the reasons for it.

8G Decisions of Board on change to individual scope of practice

- (1) As soon as practicable after the Board authorises a change to an individual scope of practice, the Registrar must enter the change in the Register and promptly notify the social worker of the change and the reasons for it.
- (2) A change must also be endorsed on the social worker's practising certificate under **section 35A**.
- (3) If the Board, after considering an application for a change to an existing individual scope of practice, decides that the change should not be authorised, the Registrar must promptly notify the social worker of the decision and the reasons for it.

8H Board may adopt general conditions

- (1) The Board may, as it thinks fit, adopt any conditions to apply to the individual scopes of practice (*see* **section 8A**) of all social workers or all social workers of a particular description.
- (2) The conditions may include a condition relating to supervision.

9AC Section 9 amended (Consideration of applications by Board)

- (1) In section 9(b)(ii), delete "restrictions or" in each place.
- (2) In section 9(b)(ii), delete "(or both)".

9AD Section 9 repealed (Consideration of applications by Board)

Repeal section 9.

9AE Section 10 amended (Provisional registration)

- (1) In section 10(1)(b), replace “restrictions” with “other conditions”.
- (2) In section 10(2) and (3), replace “section 14(2)” with “**section 14**”.

9AF Section 10 amended (Provisional registration)

Replace section 10(1) with:

- (1) A person registered provisionally must be registered with conditions in their individual scope of practice appropriate to their circumstances.

9AG Section 11 amended (Temporary registration)

Replace section 11(1) with:

- (1) A person registered temporarily—
 - (a) must always be registered subject to conditions relating to the institution or place where they intend to practise social work; and
 - (b) may also be registered subject to other conditions.

9AH Section 11 amended (Temporary registration)

Replace section 11(1) (as amended by **section 9AG**) with:

- (1) A person registered temporarily—
 - (a) must be registered with conditions in their individual scope of practice relating to the institution or place where they intend to practise as a social worker:
 - (b) may also be registered with other conditions in their individual scope of practice.

9B Section 12 amended (Criteria for full registration)

In section 12, delete “, and only if”.

9C Section 12 and cross-heading repealed

Repeal section 12 and the cross-heading above section 12.

10 Section 13 repealed (Board may recognise practical experience in certain cases)

- (+) Repeal section 13.

11 Section 14 replaced (Criteria for provisional registration)

Replace section 14 with:

14 Criteria for provisional registration

The Board must decide that the applicant should be registered provisionally if satisfied—

- (a) that the applicant’s competence to practise as a social worker has been found satisfactory under Part 3; and
- (b) that ~~he or she is~~ they are a fit and proper person to practise as a social worker, meets some of the other criteria in section 6 or 7, and ~~is~~ are in the process of working towards meeting the rest of them; and
- (c) in the case of an applicant who has previously held a provisional certificate of registration, that ~~he or she~~ they—
 - (i) ~~has~~ have already made satisfactory progress in working towards meeting all the criteria in section 6 or 7; or
 - (ii) ~~has~~ have good reasons for not having made satisfactory progress in doing so.

11A Section 15 amended (Criteria for temporary registration)

In section 15, delete “, and only if”.

11B Section 17 amended (Board to give reasons)

- (1) In section 17(1), replace “restrictions” with “conditions” in each place.
- (2) In section 17(2), after “subject to conditions”, insert “first being met”.

11C Section 17 repealed (Board to give reasons)

Repeal section 17.

11D Section 18 amended (Registrar to register successful applicants)

- (1) In section 18, after “must register him or her”, insert “(but, if section 17(2) applies, register them only when the conditions imposed have been met)”.
- (2) In section 18(a) and (c), delete “restrictions or”.
- (3) In section 18(b), after “case of conditions”, insert “that must be met before the applicant can be registered”.

11E Section 18 and cross-heading repealed

Repeal section 18 and the cross-heading above section 18.

11F Section 19 repealed (Registrar to notify unsuccessful applicants)

Repeal section 19.

11G New heading inserted above section 20

Above section 20, insert:

Certificates of registration

11H Section 21 amended (Surrender of certificate of registration)

- (1) In section 21(2)(b)(i) and (ii), delete “restrictions or” in each place.
- (2) In section 21(2)(b)(ii), replace “appropriate” with “current”.

11I Section 23 amended (Criteria for renewal of limited registration)

In section 23(1)(a), replace “section 14(2)” with “**section 14**”.

12 Section 24 amended (Cancellation of limited registration)

In section 24, insert as subsections (2) and (3):

- (2) The Board must not cancel a social worker’s limited registration unless—
 - (a) it is satisfied that the Registrar has made reasonable efforts to give that social worker—
 - (i) written notice of the Board’s reasons for proposing to do so; and
 - (ii) a copy of any written information on which the Board is relying; and
 - (iii) a written summary of any other information on which the Board is relying; and
 - (iv) written notice giving the social worker a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and
 - (b) the Board has then—
 - (i) given the social worker a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and
 - (ii) considered any written or oral submissions that were made to it.
- (3) A person exercising his or her right to be heard personally is entitled to be accompanied by 1 person of his or her choice who agrees to attend.

12 Section 24 replaced (Cancellation of limited registration)

Replace section 24 with:

24 Cancellation of limited registration

- (1) The Board may, at any time in its absolute discretion, cancel a social worker’s limited registration; and, if it does so, the Registrar must make reasonable efforts to give them written notice, signed and dated by the Registrar,—
 - (a) that their registration has been cancelled; and
 - (b) of the reasons for the cancellation; and
 - (c) that they are required by section 21(2)(a) to surrender their certificate of registration.
- (2) The Board must not cancel a social worker’s limited registration unless—

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- (a) it is satisfied that the Registrar has made reasonable efforts to give that social worker—
 - (i) written notice of the Board’s reasons for proposing to do so; and
 - (ii) a copy of any written information on which the Board is relying; and
 - (iii) a written summary of any other information on which the Board is relying; and
 - (iv) written notice giving the social worker a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and
- (b) the Board has then—
 - (i) given the social worker a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and
 - (ii) considered any written or oral submissions that were made to it.
- (3) A person exercising their right to be heard personally is entitled to be accompanied by 1 person of their choice who agrees to attend.

Practising certificates

12A Section 25 amended (Practising registered social workers to hold practising certificates)

In section 25, replace “No registered social worker may be employed or engaged as a social worker unless” with “A person registered ~~as a social worker~~ under this Act may ~~be employed or engaged~~ practise as a social worker only if”.

13 Section 25 repealed (Practising registered social workers to hold practising certificates)

Repeal section 25.

14 Section 27 amended (Effect of making compliant application)

Repeal section 27(3)(b).

14A Section 28 amended (Issue of practising certificates)

In section 28(1), after “issue a practising certificate”, insert “either in hard copy or electronically”.

15 Section 29 amended (Board may adopt general conditions)

In section 29(2)(b), replace “continuing professional development” with “professional development (*see* **section 38A**)”.

15A Section 29 repealed (Board may adopt general conditions)

Repeal section 29.

16 Section 30 amended (Restrictions on issue of practising certificates)

(1A) In section 30(1)(b)(ii), delete “as a profession”.

(1) After section 30(2), insert:

(2A) The Registrar may refer any application for a practising certificate to the Board for it to decide whether the person is a fit and proper person to practise as a social worker, if the Registrar has reason to suspect that the applicant is not a fit and proper person to practise ~~social work~~ as a social worker.

(2) Repeal section 30(4).

16A Section 30 amended (Restrictions on issue of practising certificates)

After section 30(1)(b)(iii), insert:

(iv) has failed to fulfil or comply with a condition included in the applicant’s individual scope of practice.

17 Section 31 replaced (Board to consider certain applications)

Replace section 31 with:

31 Board to consider certain applications

(1) Promptly after the Registrar refers an application for a practising certificate to the Board, the Board must consider,—

(a) unless the referral is made under section 30(1)(b)(iii) or **(2A)**, whether the applicant is competent to practise as a social worker under section 38; or

(b) if the referral is made under section 30(1)(b)(iii) or **(2A)**, whether the applicant is fit to practise as a social worker under ~~section 48~~ 47.

(2) ~~The Board must then consider the requirements of section 33, and direct the Registrar to—~~

(a) ~~issue a practising certificate to the applicant without particular conditions; or~~

(b) ~~issue a practising certificate to the applicant subject to particular conditions; or~~

(c) ~~refuse to issue a practising certificate to the applicant.~~

(2) See section 32 for procedural requirements and **section 33** for the terms of the Board’s decision.

17A Section 32 amended (Procedure for consideration)

(1) In section 32(1)(a), delete “particular”.

(2) In section 32(3)(a)(i), delete “particular”.

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- (3) In section 32(3)(b), replace “information” with “written information and a written summary of any other information”.

17B Section 32 amended (Procedure for consideration)

- (1) In section 32(1)(a) (as amended by **section 17A**), replace “subject to conditions” with “with conditions in the applicant’s individual scope of practice”.
- (2) In section 32(3)(a)(i) (as amended by **section 17A**), replace “issue a practising certificate subject to conditions” with “issue a practising certificate with conditions in the applicant’s individual scope of practice”.

18 Section 33 amended (Decisions of Board as to practising certificates)

- (1AA) In section 33(1)(a) and (b), delete “restrictions or” in each place.

- (1AB) In section 33(1)(a) and (b), delete “particular” in each place.

- (1) In section 33(1)(a), after “competent to practise as a social worker”, insert “or and is fit to practise as a social worker (as relevant)”.

- (1A) In section 33(1)(b), delete “(or both)”.

- (1B) In section 33(1)(b), replace “competent” with “both competent and fit”.

- (2) After section 33(1)(b), insert:

(ba) the Board must direct the Registrar to issue a practising certificate to the applicant, subject to restrictions or particular conditions (or both), if it is satisfied that the applicant is fit to practise as a social worker in accordance with his or her registration only subject to those restrictions or conditions:

- (3) In section 33(1)(c)(i), after “competent to practise as a social worker”, insert “or be fit to practise as a social worker (as relevant)”.

- (4) Replace section 33(1)(c) with:

(c) in any other case,—

(i) the Board must direct the Registrar to—

(A) refuse to issue a practising certificate to the applicant until they have met conditions the Board requires them to meet before a practising certificate is issued; and

(B) issue a practising certificate to the applicant under **paragraph (a) or (b)** once those conditions have been met; or

(ii) the Board must direct the Registrar to refuse to issue a practising certificate to the applicant.

18A Section 33 replaced (Decisions of Board as to practising certificates)

Replace section 33 with:

33 Decisions of Board as to practising certificates

- (1) Where the Registrar has referred an application for a practising certificate to the Board,—
- (a) the Board must direct the Registrar to issue a practising certificate to the applicant without conditions in their individual scope of practice (authorised under **section 8A**) if it is satisfied that they are competent and fit to practise as a social worker in accordance with their individual scope of practice:
 - (b) the Board must direct the Registrar to issue a practising certificate to the applicant with conditions in their individual scope of practice (authorised under **section 8A**) if it is satisfied that they are competent and fit to practise as a social worker in accordance with their individual scope of practice only if those conditions are included in it:
 - (c) in any other case,—
 - (i) the Board must direct the Registrar to—
 - (A) refuse to issue a practising certificate to the applicant until they have met conditions the Board requires them to meet prior to a practising certificate being issued; and
 - (B) issue a practising certificate to the applicant under **paragraph (a) or (b)** once those conditions have been met; or
 - (ii) the Board must direct the Registrar to refuse to issue a practising certificate to the applicant.
- (2) A direction by the Board under **subsection (1)(b)** may include the imposition of a new condition, or the cancellation or variation of an existing condition.
- (3) If the Board gives a direction under **subsection (1)(b) or (c)**,—
- (a) the direction must state the Board’s reasons for it; and
 - (b) the Registrar must give the applicant notice of the direction and reasons.
- (4) If the Board gives a direction under **subsection (1)(c)(i)(A)**, it may also direct the Registrar to issue an interim practising certificate to the applicant (under section 37).

19 Section 34 amended (Currency of practising certificates)

- (†) In section 34(3), replace “ceases to be a registered social worker” with “has his or her registration cancelled or suspended (other than on an interim basis under **section 57A)**”.

Replace section 34(3) with:

- (3) If a social worker’s registration is cancelled, their practising certificate is also cancelled and if a social worker’s registration is suspended, their practising certificate is also suspended.

Proposed amendments to

19A Section 35 amended (Conditions on practising certificates)

- (1) In section 35(1) and (2), delete “restrictions or” in each place.
- (2) In section 35(1)(a) and (2)(a), replace “note” with “endorse”.
- (3) In section 35(1)(b)(i) and (2)(b)(i), delete “(or both)”.
- (4) In section 35(1)(b)(ii) and (2)(b)(ii), delete “restrictions and”.
- (5) After section 35(2), insert:
- (3) If changes are made to the conditions on the registration or practising certificate of a social worker by the Board or Tribunal, the Registrar must ensure that the changes are endorsed or noted on the social worker’s practising certificate or interim practising certificate.

19B Section 35 repealed (Conditions on practising certificates)

Repeal section 35.

19C New section 35A inserted (Scope of practice must be endorsed on practising certificates)

Before section 36, insert:

35A Scope of practice must be endorsed on practising certificates

- (1) The Registrar must endorse on every practising certificate or interim practising certificate issued to a social worker a description of the social worker’s individual scope of practice (including any conditions to which it is subject).
- (2) If changes are made by the Board or Tribunal to the social work services a social worker is permitted to perform or not perform or to conditions in their individual scope of practice, the Registrar must ensure that the changes are endorsed on the social worker’s practising certificate or interim practising certificate.

20 Section 36 amended (Surrender of practising certificates)

- (1) In section 36(1)(a), delete “or suspended”.
- (1) In section 36(1)(b), replace “under Part 3” with “or noting of changes to conditions under **section 35(3)**”.
- (2) In section 36(1)(c)(ii), delete “54.”.
- (3) In section 36(1)(c)(ii), after “57(2)(b)(ii),”, insert “**57A**.”.
- (3A) In section 36(2), replace “practising certificate” with “practising certificate that was issued in hard copy”.
- (4) In section 36(2), after “endorsement”, insert “or noting of changes to conditions (unless any of the things referred to in that subsection have been lifted or revoked)”.
- (5) After section 36(2), insert:

- (3) If subsection (1) applies to the holder of a practising certificate that was issued electronically, they (or, in the case of a holder who has died, their personal representative) must, within 7 days of receiving notice of the cancellation, suspension, or requirement for endorsement or noting of changes to conditions, acknowledge receipt of that notice to the Registrar.

20A Section 36 amended (Surrender of practising certificates)

- (1) In section 36(1)(b) (as amended by **section 20**), replace “or noting of changes to conditions under **section 35(3)**” with “of changes to social work services or conditions under **section 35A(2)**”.
- (2) In section 36(2) and (3) (as amended by **section 20**), replace “or noting of changes to” with “of changes to social work services or”.

20B Section 37 amended (Interim practising certificates)

- (1) After section 37(1), insert:
- (1A) An interim practising certificate may be issued either in hard copy or electronically.
- (2) In section 37(4), replace “receives the notice” with “is given the notice (*see* section 145)”.

20C Section 37 amended (Interim practising certificates)

- (1) In section 37(1)(a), replace “section 33(3)(a)” with “**section 33(4)**”.
- (2) In section 37(1)(b), replace “subject to any conditions the Board thinks fit” with “with conditions in the person’s individual scope of practice as the Board thinks fit”.

Competence and fitness

21 Section 38 amended (Competence to practise social work)

- (1) In section 38(1), replace “social work” with “as a social worker is”.
- (2) In section 38(1), delete “, and only if”.
- (3) Replace section 38(1)(a) with:
- (a) he or she has ~~they~~ have completed a competence assessment required by the Board for the purpose of determining whether his or her ~~their~~ competence to practise as a social worker is satisfactory for the purposes of this Act; and
- (4) After section 38(2), insert:
- (2A) In the case of an applicant to whom section 6 applies, the Board can give a direction under subsection (2) only if **section 6(2)** applies.

22 New sections 38A and 38B inserted

After section 38, insert:

38A Professional development for practising social workers

- (1) For the purpose of maintaining, examining, or improving the competence of all practising social workers, the Board ~~may~~ must, from time to time, ~~set or~~ recognise ways of undertaking professional development, including any of the following ways:
- (a) passing any examinations or assessments, or both:
 - (b) completing a period of practical training:
 - (c) completing a period of practical work experience:
 - (d) undertaking a period of supervised practice:
 - (e) undertaking a course of instruction:
 - (f) undertaking a systematic process for ensuring that ~~the~~ a social worker's practice, or the practice of each of the social workers in ~~the~~ a class, ~~meets the required~~ an appropriate standard of competence.
- (2) The Board may require a specified social worker, a specified class of social workers, or all social workers to undertake a particular form of professional development, for example, a particular course of instruction.
- (3) The Board may exempt any social worker or class of social workers from any professional development requirement under **subsection (2)**.
- (4) When ~~setting or~~ recognising ways of undertaking professional development; or ~~when~~ requiring that a particular form of professional development be undertaken, the Board must be guided by the principle that professional development should not impose undue costs on practising social workers or their employers.

38B Mandatory requirement for employers to report to Board if social worker believed not to be competent

- (1) ~~An employer who employs 1 or more social workers and who, after fulfilling his or her duty under **subsection (2)**, believes on reasonable grounds that a social worker is not competent to practise must promptly report that belief to the Board.~~
- (2) ~~Before reporting to the Board, the employer must take reasonable steps to assist the social worker to improve his or her competency, including by way of professional development.~~
- (1) An employer who employs 1 or more social workers must, as soon as practicable after becoming aware that a social worker may not be competent to practise as a social worker, investigate whether the social worker is competent to do so.
- (2) If, after that investigation, the employer believes that the social worker needs assistance to improve their competency, the employer must, as soon as practicable, take reasonable steps to provide that assistance, including by way of professional development.

- (2A) An employer who, after fulfilling their duties under **subsections (1) and (2)**, believes on reasonable grounds that a social worker is not competent to practise must promptly report that belief to the Board.
- (2B) If a social worker resigns, or is dismissed from their employment, for reasons relating to competence (whether or not any action has been taken under **subsections (1) and (2)**), the employer who employed that social worker immediately before that resignation or dismissal must promptly report to the Board, giving reasons for that resignation or dismissal.
- (3) A report to the Board must—
- (a) be in writing; and
 - (b) state the reasons why the employer believes that the social worker is not or may not be competent to practise as a social worker; and
 - (c) describe the action (~~if any~~) the employer has taken to assist the social worker and the outcome of the assistance.
- (4) No civil, criminal, or disciplinary proceedings may be taken against a person who makes a report under this section, unless that person has acted in bad faith.

22A Section 38A amended (Professional development for practising social workers)

After **section 38A(4)** (as inserted by **section 22**), insert:

- (5) In this section, **appropriate standard of competence**, in relation to a social worker, means the standard of competence to be expected of a social worker practising under their individual scope of practice.

22B Section 38B amended (Mandatory requirement for employers to report to Board if social worker believed not to be competent)

In **section 38B(1)** (as inserted by **section 22**), after “competent to practise as a social worker”, insert “within the relevant scope of practice”.

23 Section 39 amended (Reviews of competence to practise social work)

In section 39(1), after “social work”, insert “, including if the Board receives information that reflects adversely on the social worker’s competence, for example, a report under **section 38B**”.

23A Section 41 amended (Actions after review of competence)

- (1) In section 41(2), replace “on his or her registration, practising certificate, or both” with “in the social worker’s individual scope of practice or cancel or vary an existing condition”.
- (2) In section 41(5), replace “receives the copy” with “is given a copy (*see section 145*)”.

23B Section 42 amended (Competence assessments)

- (1) In section 42(1)(a), replace “registration (or proposed registration)” with “individual scope of practice (or proposed individual scope of practice)”.
- (2) Replace section 42(4) with:
- (4) Any other competence assessment may apply to 1 or more social work services under 1 or more scopes of practice.

23C Section 43 amended (Copies of competence assessments to be available)

In section 43, after “competence assessments”, insert “set or recognised by the Board under section 42 that are”.

24 Section 44 repealed (Registered social workers to complete assessments every 5 years)

Repeal section 44.

25 Section 45 amended (Actions if registered social worker fails assessment)

- (1) In section 45(1)(b)(ii), delete “or practising certificate”.
- (1) In section 45(2)(c), replace “information” with “written information and a written summary of any other information”.
- (2) After section 45(8), insert:
- (9) Nothing in this section prevents the Board from, at any time, exercising its power under **section 57A** to give interim directions relating to a social worker’s registration or practising certificate.

25A Section 45 amended (Actions if registered social worker fails assessment)

Replace section 45(1)(b)(i) with:

- (i) make either or both of the following changes to the social worker’s individual scope of practice as the Board thinks fit:
 - (A) change the social work service or services that the social worker is permitted to perform or not permitted to perform;
 - (B) include a new condition or cancel or vary an existing condition; or

26 Cross-heading above section 47 replaced

Replace the cross-heading above section 47 with:

Fitness to practise and serious misconduct

27 Section 47 amended (Fitness to practise social work)

Replace section 47(1) and (2) with:

- (1) The Board may find a person (A) is not a fit and proper person to practise as a social worker only if it is satisfied that there are grounds on which a reasonable

~~person would conclude that A is not a fit and proper person to practise as a social worker reach that conclusion.~~

- (2) The Board may be satisfied that those grounds exist if 1 or more of the following circumstances occur:
- (a) A has not satisfied the Board that ~~he or she is~~ A is able to communicate effectively for the purposes of practising as a social worker:
 - (b) A has not satisfied the Board that ~~his or her~~ A's ability to communicate in and comprehend English is sufficient to protect the health and safety of the public:
 - (c) A has been convicted, in New Zealand or overseas, 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 upon ~~his or her~~ A's fitness to practise as a social worker:
 - (d) the Board is satisfied that A is unable to satisfactorily perform the functions required to practise as a social worker because of a mental or physical condition:
 - (e) the Board is satisfied on reasonable grounds that A is not of good character or reputation:
 - (f) professional disciplinary proceedings are being taken against A in New Zealand or overseas, and the Board considers on reasonable grounds that those proceedings reflect adversely upon A's fitness to practise as a social worker:
 - (g) A is subject to an investigation in New Zealand or overseas (for example, an investigation by the Health and Disability Commissioner) relating to any matter that may lead to the taking of professional disciplinary proceedings against A, and the Board considers on reasonable grounds that the investigation reflects adversely upon A's fitness to practise as a social worker:
 - (h) a finding or an order has been made against A in professional disciplinary proceedings or an investigation, and A has not satisfied the Board that the finding or order does not reflect adversely upon A's fitness to practise as a social worker:
 - (i) the Board is satisfied on reasonable grounds that A may endanger the health or safety of a member or members of the public.

28 New section 47A inserted (Mandatory requirement for employers to report serious misconduct allegations to Board)

After section 47, insert:

47A Mandatory requirement for employers to report serious misconduct allegations to Board

- (1) An employer who employs 1 or more social workers and who believes on reasonable grounds that a social worker has engaged in serious misconduct must promptly report that belief to the Board.
- (2) A report to the Board must—
 - (a) be in writing; and
 - (b) state the circumstances of the alleged serious misconduct; and
 - (ba) state the grounds for the employer’s belief; and
 - (bb) include a copy of any written information and a written summary of any other information on which the employer’s belief is based; and
 - (c) describe the action (if any) the employer has taken in relation to the allegation.
- (3) In this section, **serious misconduct** means conduct by a social worker ~~that—~~
 - ~~(a) has an unduly adverse effect, or is likely to have an unduly adverse effect, on the well-being of any person with whom the social worker comes into contact in the course of his or her practice as a social worker; or~~
 - ~~(b) reflects adversely on the social worker’s fitness to be a social worker; or~~
 - ~~(c) may bring the social work profession into disrepute.~~
 - (a) that—
 - (i) has, or is likely to have, an unduly adverse effect on the well-being of any person with whom the social worker comes into contact in the course of their practice as a social worker; or
 - (ii) reflects adversely on the social worker’s fitness to be a social worker; and
 - (b) that is of a character and severity that meets the Board’s criteria for reporting serious misconduct (set under **section 99(1)(oa)**).
- (4) No civil, criminal, or disciplinary proceedings may be taken against a person who makes a report under this section, unless that person has acted in bad faith.

29 Section 48 amended (Consideration of fitness to practise social work)

(1AA) In section 48(a), replace “; and” with “; or”.

- (1) After section 48(a), insert:
 - (aa) promptly after receiving an application by the person for a practising certificate that has been referred by the Registrar under section 30(1)(b)(iii) or **(2A)**; and or
- (2) In section 48(b), after “promptly after”, insert “receiving a report under **section 47A** or”.

30 Section 49 amended (Action if Board considers registered social worker not fit and proper)

- (1) In section 49(1), after “after”, insert “receiving a report under **section 47A** or”.
- (2) ~~In section 49(2)(b) and (5), delete “or practising certificate”.~~
- (2) In section 49(3)(b), replace “information” with “written information and a written summary of any other information”.
- (3) In section 49(7), after “direction”, insert “(see section 145)”.
- (4) After section 49(9), insert:
- (10) Nothing in this section prevents the Board from, at any time, exercising its power under **section 57A** to give interim directions relating to a social worker’s registration or practising certificate.

31 Section 50 amended (Board to ask Police for information, and consider convictions)

- (1) Replace the heading to section 50 with “**Board to ask for Police vet, and consider convictions and other information**”.
- (2) In section 50, delete “must”.
- (3) Replace section 50(a) and (b) with:
 - (a) must obtain a Police vet from the Police Vetting Service; and
 - (aa) may require the person to comply with Police requirements for that purpose; and
 - (b) must consider any criminal convictions (whether in New Zealand or overseas) and other information disclosed to the Board by the Police or otherwise known to the Board.
- (4) In section 50, insert as subsection (2):
 - (2) However, if an application for a practising certificate is referred to the Board under section 30(1)(b)(iii) or **(2A)**, the Board may not request a Police vet if a Police vet of the applicant under this section has been done within the preceding 3 years, unless other concerns about the person’s fitness to practise have been raised with the Board since that Police vet was done.

32 Section 51 amended (Notification of conditions affecting ability to practise social work)

- (1AA) In the heading to section 51, replace “**Notification**” with “**Reporting**”.
- (1) Replace section 51(1) with:
 - (1) A person who believes that a social worker may be unable to satisfactorily perform the functions required to practise as a social worker may report that belief to the Board.

Proposed amendments to

- (1A) A social worker who believes on reasonable grounds that another social worker is unable to satisfactorily perform the functions required to practise as a social worker because of a mental or physical condition must promptly report that belief to the Board.
- (1B) A failure to report under **subsection (1A)** may constitute professional misconduct and be the subject of a complaint to the Board under section 59.
- (1C) An employer who employs 1 or more social workers and who believes on reasonable grounds that a particular social worker may be unable to satisfactorily perform the functions required to practise as a social worker because of a mental or physical condition must promptly report that belief to the Board.
- (1D) A report to the Board under **subsection (1A) or (1C)** must—
- (a) be in writing; and
 - (b) state the reasons for the social worker’s or employer’s belief; and
 - (c) if the report is made under **subsection (1C)**, describe the action (if any) the employer has taken in relation to the allegation.
- (2) Replace section 51(2) and (3) with:
- (2) No civil, criminal, or disciplinary proceedings may be taken against a person who makes a report under this section, unless that person has acted in bad faith.
 - (3) **Subsection (2)** applies even if the report contains information relating to a person other than the social worker.

33 Section 52 amended (Power to seek medical advice)

(1AA) In section 52(1), replace “notifying” with “reporting to”.

- (1) Replace section 52(2) with:
- (2) A report under section 51 must include a copy or (if a copy is not available) a description of any medical advice obtained.

33A Section 53 amended (Notice to be put before chairperson)

- (1) In the heading to section 53, replace “Notice” with “Report”.
- (2) In section 53, replace “notice” with “report”.

34 Section 54 repealed (Interim suspensions)

Repeal section 54.

35 Section 55 amended (Power to order medical examination)

(1AA) In section 55(1), replace “a notice” with “a report”.

- (1) In section 55(1), replace “perform adequately the functions required to practise social work satisfactorily” with “satisfactorily perform the functions required to practise as a social worker”.

36 Section 56 amended (Conduct and consequences of examination)

In section 56(3), replace “practise social work satisfactorily” with “practise satisfactorily as a social worker”.

37 Section 57 amended (Restrictions may be imposed because of condition)

(1AA) In the heading to section 57, replace “Restrictions” with “Conditions”.

- (1) In section 57(2)(b)(ii), replace “or practising certificate” with “for a period that the Board considers is reasonably necessary to protect the public”.
- (1) In section 57(2)(b)(ii), after “or practising certificate”, insert “for a period that the Board considers is reasonably necessary to protect the public”.
- (2) In section 57(3)(a)(i), replace “perform adequately the functions required to practise social work satisfactorily” with “satisfactorily perform the functions required to practise as a social worker”.
- (3) In section 57(3)(b), replace “practise social work satisfactorily” with “practise satisfactorily as a social worker”.
- (4) In section 57(4)(b), replace “why” with “the reasons for which”.
- (5) In section 57(6)(a), after “copy”, insert “(see section 145)”.

37A Section 57 amended (Conditions may be imposed because of condition)

- (1) Replace the heading to section 57 with “**Individual scope of practice may be changed or registration or practising certificate may be suspended because of mental or physical condition**”.
- (2) Replace section 57(2)(b)(i) with:
 - (i) make either or both of the following changes to the social worker’s individual scope of practice as the Board thinks fit:
 - (A) change the social work service or services that the social worker is permitted to perform or not permitted to perform;
 - (B) include a new condition or cancel or vary an existing condition; or
- (3) After section 57(3), insert:
- (3A) The Board must not give a direction under **subsection (2)(b)(i)** unless it is satisfied that, in addition to the matters in subsection (3), the social worker will be able to satisfactorily perform the functions required to practise as a social worker if they do so in accordance with the proposed change to their scope of practice.

38 New sections 57A and 57B and cross-heading inserted

After section 57, insert:

Interim suspension of registration or practising certificate or both or imposition of conditions on registration or practising certificate or both while Board considers competence, fitness, or serious misconduct issue

57A Interim suspension of registration or practising certificate or both or imposition of conditions on registration or practising certificate or both

- (1) This section applies whenever and however an issue of competence, fitness, or serious misconduct comes to the attention of the Board unless, in the particular case, a medical examination is ordered under section 55.
- (2) The Board may direct the Registrar to suspend the registration or practising certificate or both of a social worker if the Board considers on reasonable grounds that,—
- (a) because of competence issues, the social worker’s practice poses a risk of serious harm to the public; or
 - (b) the social worker may be unable to satisfactorily perform the functions required to practise as a social worker because of a mental or physical condition; or
 - (c) an investigation under this Act or the Health and Disability Commissioner Act 1994, or a criminal proceeding, relating to the social worker is underway and a reasonable doubt is raised about that person’s competence or whether the person is a fit and proper person to practise as a social worker.
- (3) The Board may, if the requirements of **subsection (2)** are met, instead of directing the suspension of a social worker’s registration or practising certificate or both, direct the Registrar to make the social worker’s registration or practising certificate, or both, subject to conditions stated by the Board.
- (4) ~~The registration of the social worker may be suspended or conditions may be imposed on the social worker’s registration or practising certificate, or both—A~~ direction under this section may be made—
- (a) for a period of not more than 10 working days from the date on which a copy of the direction is given to the social worker; and
 - (b) for a further period of 10 days, if that is reasonable and necessary to allow either further investigation or a medical examination to take place.
- (5) A direction given under this section must—
- (a) be in writing and be signed by the chairperson of the Board; and
 - (b) set out the Board’s reasons for giving the direction.

57B Requirements for direction under section 57A

- (1) A direction under **section 57A** must—
- (a) ~~be in writing; and~~

- (b) ~~state why it has been given; and~~
 - (c) ~~state that the social worker may respond to the direction; and~~
 - (d) ~~be signed by the chairperson.~~
- (2) ~~The Registrar must take all reasonably practicable steps to ensure that a copy of the direction is given to the social worker as soon as is practicable after it is given.~~
- (3) ~~The interim suspension or imposition of conditions does not take effect until the social worker is given a copy of the direction.~~

57B Notice of direction under section 57A to be given to social worker

- (1) If the Board has made a direction under **section 57A**, it must give to the social worker concerned notice in writing that includes—
- (a) a copy of the direction; and
 - (b) a copy of any written information relied on by the Board in making the direction; and
 - (c) a written summary of any other information relied on by the Board in making the direction.
- (2) The Registrar must take all reasonably practicable steps to ensure that notice under this section is given to the social worker as soon as practicable after the direction is made.
- (3) The direction does not take effect until the social worker is given notice under this section (see section 145).

38A Cross-heading above section 57A amended

In the cross-heading above **section 57A** (as inserted by **section 38**), replace “*imposition of conditions on registration or practising certificate or both*” with “*change to individual scope of practice*”.

38B Section 57A amended (Interim suspension of registration or practising certificate or both or imposition of conditions on registration or practising certificate or both)

- (1) In the heading to **section 57A** (as inserted by **section 38**), replace “**imposition of conditions on registration or practising certificate or both**” with “**change to individual scope of practice**”.
- (2) In **section 57A(3)** (as inserted by **section 38**), replace “make the social worker’s registration or practising certificate or both subject to conditions stated by the Board” with “make changes to the social worker’s individual scope of practice under **subsection (3A)**”.
- (3) After **section 57A(3)** (as inserted by **section 38**), insert:
- (3A) The Board may, as it thinks fit, direct that either or both of the following changes be made to a social worker’s individual scope of practice:

Proposed amendments to

- (a) change the social work service or services that the social worker is permitted to perform or not permitted to perform:
- (b) include a new condition or cancel or vary an existing condition.

39 Section 58 amended (Revocation of restrictions)

- (1) Replace the heading to section 58 with “**Revocation of suspension or restrictions conditions**”.
- (2) In section 58(1), replace “section 54 or section 57” with “section 57 or **57A**”.
- (3) In section 58(1)(a) and (b), replace “practise social work satisfactorily” with “practise satisfactorily as a social worker”.
- (4) In section 58(2), replace “section 57” with “section 57 or **57A**”.

39A Section 58 amended (Revocation of conditions)

- (1) Replace the heading to section 58 with “Revocation of suspension or change to individual scope of practice”.
- (2) In section 58(2) (as amended by section 39), replace “revoke any conditions imposed under section 57 or 57A if it is satisfied that they are no longer necessary” with “revoke any change made to the individual scope of practice of the social worker under section 57 or 57A if it is satisfied that the change is no longer necessary”.

40 New section 58A and cross-heading inserted

After section 58, insert:

Setting conditions on revocation of suspension of registration or practising certificate

58A Conditions on revocation of suspension of registration or practising certificate

- (1) This section applies if a social worker’s registration or practising certificate has been suspended under section 45(1)(b)(ii), 49(2)(b), 57(2)(b)(ii), **57A**, or 133(6)(b)(i).
- (2) The Board may set conditions that must be satisfied by the social worker before the Board will consider revoking the suspension.
- (3) The conditions may include any or all of the following:
 - (a) a condition that the person undertake a specified course of education or training;
 - (b) a condition that the person undergo—
 - (i) any specified medical examination and treatment; or
 - (ii) any specified psychological or psychiatric examination, counselling, or therapy;

- (c) a condition that the person attend any specified course of treatment or therapy for alcohol or drug abuse;
 - (d) any other condition designed to address the matter that gave rise to the suspension of the person's registration or practising certificate.
- (4) The Board must not impose a condition under **subsection (3)(b) or (c)** unless the person consents to the examination, treatment, counselling, or therapy concerned.
- (5) **Subsection (3)** does not limit **subsection (2)**.

Discipline

41 Section 60 replaced (Registrar to notify Tribunal of complaints)

Replace section 60 with:

60 Registrar to notify Board of complaints

The Registrar must notify the Board in writing of a complaint under section 59(1)(b).

42 Section 63 replaced (Notification of convictions)

Replace section 63 with:

63 Notification of convictions

- (1) This section applies to the Registrar of a court in New Zealand in which a person who the Registrar knows is a social worker registered under this Act is convicted of an offence punishable by imprisonment for a term of 3 months or longer.
- (2) The Registrar must send a notice of the conviction to the Board, unless the court expressly orders otherwise.

43 Section 65 replaced (Referral of complaints and notices of conviction to complaints assessment committee)

Replace section 65 with:

65 Referral of complaints and notices of conviction to professional conduct committees

- (1) As soon as is reasonably practicable after being notified of a complaint, the Board must refer it to a professional conduct committee, unless—
 - (a) the Board and the Health and Disability Commissioner agree that it does not need to be pursued (in the case of a complaint relating to a matter over which the Board and the Commissioner both have jurisdiction); or
 - (b) the Board is satisfied that it does not need to be pursued (in any other case).

Proposed amendments to

- (2) As soon as is reasonably practicable after the Board has decided whether to refer a complaint to a professional conduct committee, the Registrar must give the social worker concerned written notice of—
- (a) the Board’s decision; and
 - (b) the particulars of the complaint.
- (3) ~~As soon as is reasonably practicable after receiving a notice of conviction given under **section 63**, the Board must refer it to a professional conduct committee.~~
- (3A) ~~As soon as is reasonably practicable after the Board has referred a notice of conviction to a professional conduct committee, the Registrar must give the social worker concerned written notice that the Board has done so.~~
- (4) If the Board receives more than 1 complaint ~~or notice of conviction~~ relating to the same social worker (whether at the same time or at different times), the Board may refer both or all of the complaints ~~or notices of conviction~~ to the same professional conduct committee.

43A New section 65A inserted (Action to be taken by Board on receipt of notice of conviction)

After section 65, insert:

65A Action to be taken by Board on receipt of notice of conviction

- (1) This section applies if the Board receives a notice of conviction given under **section 63**.
- (2) The Board must, as soon as is reasonably practicable,—
- (a) refer the notice of conviction to a professional conduct committee; or
 - (b) order the social worker to—
 - (i) undergo any specified medical examination and treatment; or
 - (ii) undergo any specified psychological or psychiatric examination, counselling, or therapy; or
 - (iii) attend any specified course of treatment or therapy for alcohol or drug abuse.
- (3) However, if the Board considers that the notice of conviction is for a minor offence and does not need to be referred to a professional conduct committee, it may decide to take no further action on the matter.
- (4) The Board may not make an order under **subsection (2)(b)** unless the social worker consents—
- (a) to the examination, treatment, counselling, or therapy concerned; and
 - (b) to a report being provided to the Board on the outcome of the examination, treatment, counselling, or therapy.
- (5) An order made under **subsection (2)(b)** must specify—

- (a) the date by which the examination, treatment, counselling, or therapy must be conducted, which must not be earlier than the date on which the order is given to the social worker (see section 145); and
- (b) the date by which the person who has examined, treated, counselled, or provided therapy to the social worker must report to the Board on the outcome of that examination, treatment, counselling, or therapy.
- (6) After receiving a report referred to in **subsection (5)(b)**, the Board must promptly—
 - (a) arrange for a copy of the report to be sent to the social worker; and
 - (b) consider the report.
- (7) After considering a report, the Board may—
 - (a) decide to take no further action in respect of the notice of conviction; or
 - (b) impose a new condition on or cancel or vary an existing condition of the person’s registration or practising certificate; or
 - (c) refer the notice of conviction to a professional conduct committee.
- (8) If the Board receives more than 1 notice of conviction relating to the same social worker (whether at the same time or at different times), the Board may refer both or all of the notices of conviction to the same professional conduct committee.

43B Section 65A amended (Action to be taken by Board on receipt of notice of conviction)

Replace **section 65A(7)(b)** (as inserted by **section 43A**) with:

- (b) make either or both of the following changes to the social worker’s individual scope of practice if the Board is satisfied that the social worker is able to practise as a social worker (within the relevant scope of practice) only if the changes are made:
 - (i) change the social work service or services that the social worker is permitted to perform or not permitted to perform;
 - (ii) include a new condition or cancel or vary an existing condition; or

Professional conduct committees

44 Cross-heading above section 66 replaced

Replace the cross-heading above section 66 with:

Professional conduct committees

45 Section 66 amended (Complaints assessment committees)

- (1) Replace the heading to section 66 with “**Professional conduct committees**”.
- (2) In section 66(1) and (3), replace “chairperson of the Tribunal”, with “Board”.

- (3) Repeal section 66(2).
- (3A) In section 66(3)(a), replace “committee’s” with “committee”.
- (4) In section 66(5), replace “chairperson” with “Board”.

46 New sections 68A and 68B inserted

After section 68, insert:

68A Power to call for information or things

- (1) If the requirements in **subsection (2)** are met, a professional conduct committee may, by notice in writing, require any person to produce to the committee any paper, document, record, or thing.
- (2) The requirements are that—
 - (a) the members of the committee believe on reasonable grounds that the exercise of the power is necessary to enable the committee to carry out its functions; and
 - (b) the person has failed to comply with a previous request to produce to the committee, within a reasonable time, the paper, document, record, or thing; and
 - (c) the members of the committee believe on reasonable grounds that—
 - (i) it is not reasonably practicable to obtain the information from another source; or
 - (ii) for the purposes of performing its functions, it is necessary to obtain the paper, document, record, or thing to verify or refute information obtained from another source.
- (3) The production notice may specify a date by which the paper, document, record, or thing must be produced to the committee, which must not be less than 10 working days after the notice is given to the person.

68B Compliance with production notice

- (1) A person who receives a production notice under **section 68A** must comply with the notice in the manner and by the date specified in the notice.
- (2) No charge may be made for complying with a production notice.
- (3) A person who receives a production notice is not required to produce any paper, document, record, or thing—
 - (a) if it would be privileged in a court of law; or
 - (b) if disclosure would breach an obligation of secrecy or non-disclosure imposed on the person by an enactment (other than the Official Information Act 1982 or the Privacy Act 1993).

47 Section 71 amended (Determination of complaint by complaints assessment committee)

- (1) In the heading to section 71, after “**complaint**”, insert “**or notice of conviction**”.
- (2) Replace section 71(1)(b) with:
 - (b) in the case of a complaint, the committee should—
 - (i) submit it to conciliation or mediation; or
 - (ii) recommend that the Board direct the social worker to apologise to the complainant; or
 - (iii) recommend that the Board censure the social worker; or
 - (iv) recommend that the Board refer the allegations to the Police for investigation; or
 - (v) recommend that the Board direct the social worker to undertake 1 or more of the following:
 - (A) training;
 - (B) mentoring;
 - (C) counselling; or

47A Section 71 amended (Determination of complaint by complaints assessment committee)

After section 71(1)(a), insert:

- (ab) the Board should review the social worker’s individual scope of practice;
or

47B Section 72 amended (Procedure after committee makes determination)

(1AA) Replace the heading to section 72 with “**Procedure after committee makes determination (other than to take no further action)**”.

(1) After section 72(2), insert:

- (2A) If it makes a determination under **section 71(1)(b)(ii) to (v)**, a professional conduct committee must give written notice of the determination, and the reasons for it, to—
 - (a) the Registrar; and
 - (b) the social worker.

(2) In section 72(4), replace “under subsection (2)(a) of a determination to which subsection (1)(a) applies” with “under subsection (2)(a) or **(2A)**”.

47C New section 72A inserted (Board’s consideration of committee recommendation for resolving complaint)

After section 72, insert:

72A Board's consideration of committee recommendation for resolving complaint

- (1) On receiving a notice under **section 72(2A)** of any recommendation made under **section 71(1)(b)(ii) to (v)**, the Board must consider whether it agrees with the recommendation and, if it does agree, it must implement it.
- (2) If the Board does not agree with a recommendation made to it, it must refer the complaint back to the committee for further consideration.
- (3) The Board must give written notice of its decision, the reasons for its decision, and any action it takes, to—
 - (a) the Registrar; and
 - (b) the social worker; and
 - (c) in the case of a complaint, the complainant.

48 Section 73 amended (Conciliation)

- (1) Replace the heading to section 73 with “**Conciliation and mediation**”.
- (2) Replace section 73(1) with:
 - (1) If a professional conduct committee has decided that it should submit a complaint to conciliation,—
 - (a) it may—
 - (i) act as the conciliator; or
 - (ii) appoint an independent person (who must not be a member of the committee or the Board) to act as the conciliator; and
 - (b) it, or the conciliator (if one is appointed), must try to help the social worker and the complainant to resolve the complaint by agreement.
 - (1A) If a committee refers a case to mediation, it must appoint an independent mediator.
 - (1B) A conciliator (if the committee is not acting as the conciliator) or a mediator must report back to the committee on the outcome of the conciliation meeting or mediation.

48A Section 74 amended (Committee may recommend suspension of registration or imposition of conditions)

- (1) In the heading to section 74, replace “**registration**” with “**registration or practising certificate**”.
- (2) In section 74(a), replace “registration” with “registration or practising certificate”.
- (3) In section 74(b), replace “restrictions” with “conditions”.

48B Section 74 amended (Committee may recommend suspension of registration or practising certificate or imposition of conditions)

In section 74(b) (as amended by **section 48A**), replace “practice of social work by that social worker” with “social worker’s individual scope of practice”.

Provisions relating to Tribunal

48C Section 77 amended (Interim suspension of registration or imposition of restrictions on practice)

- (1) In the heading to section 77, replace “**registration**” with “**registration or practising certificate**”.
- (2) In the heading to section 77, replace “**restrictions**” with “**conditions**”.
- (3) In section 77(1)(a), replace “registration” with “registration or practising certificate”.
- (4) In section 77(1)(b), replace “restrictions” with “conditions”.
- (5) In section 77(6), after “worker”, insert “(see section 145)”.

48D Section 78 amended (Social worker may apply for revocation of direction)

In section 78(3)(b)(ii), replace “restrictions” with “conditions” in each place.

49 Section 79 amended (Hearings of Tribunal to be public)

After section 79(2), insert:

- (2A) An application need not be made for, and, except as provided in **section 80(6A)**, an order must not be made to vary, the automatic suppression of certain evidence under **section 80(6)**.

50 Section 80 amended (Special protection for certain witnesses)

- (1) Replace section 80(1) with:
 - (1) This section applies to evidence to be given at a hearing of the Tribunal by—
 - (a) a witness (including a complainant) aged under 18 years; or
 - (b) any other witness (including a complainant) if the evidence—
 - (i) relates to or involves a sexual matter; or
 - (ii) in the Tribunal’s opinion, relates to or involves some other matter that may require the witness to give intimate or distressing evidence.
- (2) In section 80(3) and (4), replace “If the witness” with “If the witness is aged under 18 years, or is a witness described in **subsection (1)(b)** and”.
- (3) Replace section 80(6) with:
- (6) No person may publish—

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- (a) any particulars likely to lead to the identification of a witness described in **subsection (1)**; or
 - (b) an account or a report of the evidence of the witness, including the whole or any part of any book, paper, document, or other thing produced at the hearing relating to that evidence.
- (6A) However, the Tribunal may make an order allowing publication of the matters described in **subsection (6)** if—
- (a) a complainant—
 - (i) is aged 18 years or over (whether or not ~~he or she was~~ they were under 18 years when the matters that are the subject of ~~his or her~~ their evidence occurred or when ~~he or she~~ they gave evidence); and
 - (ii) applies to the Tribunal for the order; and
 - (b) the Tribunal is satisfied that the complainant understands the nature and effect of the application.
- (4) Repeal section 80(7).

51 Section 82 amended (Grounds on which Tribunal may make order)

(1AA) In section 82(1)(d), replace “restrictions” with “conditions” in each place.

- (1) In section 82(2)(b), replace “employed or engaged as a social worker” with “practising as a social worker”.
- (2) In section 82(2)(b), after “practising certificate”, insert “; or”.
- (3) After section 82(2)(b), insert:
 - (c) fails to report to the Board as required by **section 51(1A)**; or
 - (d) commits an act or omission that, in the opinion of the Tribunal, has brought or is likely to bring discredit to the social work profession.

51A Section 82 amended (Grounds on which Tribunal may make order)

- (1) In section 82(1)(b)(ii) and (c)(ii), after “practise as a social worker”, insert “under the social worker’s individual scope of practice”.
- (2) In section 82(1)(d) (as amended by **section 51**), replace “on his or her registration, or conditions” with “in their individual scope of practice”.
- (3) After section 82(1)(d), insert:
 - (e) has performed a social work service that is included in a scope of practice of the social work profession but is not included in that social worker’s individual scope of practice; or
 - (f) has failed to act in accordance with any condition included in their individual scope of practice.

52 Section 83 amended (Penalties)

(1AA) In section 83(1)(a)(i), replace “or suspended” with “or their registration or practising certificate be suspended”.

(1) In section 83(1)(a)(i), replace “12 months” with “3 years”.

(1A) In section 83(1)(a)(ii), replace “restrictions” with “conditions”.

(2) After section 83(1)(c), insert:

(ca) an order that ~~he or she~~ they apologise to the complainant:

(3) Replace section 83(2) with:

(2) The Tribunal must not make an order cancelling a social worker’s registration unless it has first considered suspension or the imposition of conditions on the person’s registration or practising certificate.

52A Section 83 amended (Penalties)

(1) In section 83(1)(a)(ii) (as amended by **section 52**), before “(as to employment, supervision, or otherwise)”, insert “in their individual scope of practice”.

(2) In **section 83(2)** (as amended by **section 52**), replace “suspension or the imposition of conditions on the person’s registration or practising certificate” with “suspension of the person’s registration or practising certificate or the imposition of conditions in their individual scope of practice”.

(3) After section 83(4), insert:

(5) In this section, **stated conditions or imposition of conditions** includes stating or imposing a new condition or varying or cancelling an existing condition.

52B Section 85 amended (Orders of Tribunal)

In section 85(3), after “worker”, insert “(see section 145)”.

Social Workers Registration Board

53 Section 99 amended (Functions of Board)

(1AAA) In section 99(1)(f), after “recognise”, insert “or prescribe”.

(1AA) After section 99(1)(g), insert:

(ga) to review social workers’ fitness to practise:

(1AB) Repeal section 99(1)(m).

(1) In section 99(1)(o), replace “perform adequately the functions required to practise social work satisfactorily” with “satisfactorily perform the functions required to practise as a social worker”.

(2) After section 99(1)(o), insert:

(oa) to set criteria for reporting serious misconduct or issues of competence or fitness to practise:

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- (ob) ~~to consider recommendations of professional conduct committees under section 71 relating to particular social workers and, if the Board agrees with the recommendation or recommendations in any case (as relevant), do 1 or more of the following:~~
- ~~(i) direct the social worker to apologise to the complainant;~~
 - ~~(ii) censure the social worker;~~
 - ~~(iii) refer the allegations to the Police for investigation;~~
 - ~~(iv) direct the social worker to undertake 1 or more of the following:~~
 - ~~(A) training;~~
 - ~~(B) mentoring;~~
 - ~~(C) counselling;~~

(3) After section 99(1), insert:

- (1A) ~~When recognising educational qualifications under subsection (1)(f), the Board must be guided by the following principles:~~
- ~~(a) the qualification must be necessary to protect members of the public; and~~
 - ~~(b) the number and types of qualifications recognised must not be so limited as to unnecessarily restrict the registration of persons as social workers; and~~
 - ~~(e) undue costs should not be imposed on persons seeking to be registered as social workers or on the public.~~

53A Section 99 amended (Functions of Board)

In section 99(1)(d), replace “all practising certificates, or the practising certificates of all registered social workers” with “the individual scopes of practice of all social workers, or of all social workers”.

53B Section 102 amended (Restriction on Ministerial direction)

In section 102, replace “relating to the registration of social workers” with “relating to the registration of individual social workers”.

54 Section 104 amended (Review of operation of Act)

Replace section 104(1)(b) with:

- (b) consider whether any amendments to this Act are necessary or desirable; and

55 Section 106 amended (Membership)

(1) Replace section 106(1) with:

- (1) The Board comprises—

- (a) 4 social workers (not being social workers whose registration or practising certificate is suspended); and
 - (b) 3 other people.
- (2) Repeal section 106(2).

55A Section 108 amended (Board may set fees)

- (1) In section 108(1)(i), replace “or approved” with “or assessment recognised”.
- (2) In section 108(1)(j), replace “the conduct” with “the setting and conduct”.

Social Workers Complaints and Disciplinary Tribunal

55B Section 115 amended (Function of Tribunal)

Repeal section 115(a).

56 Section 116 amended (Membership of Tribunal)

Replace section 116(1) with:

- (1) The Tribunal comprises the following members appointed by the Minister:
 - (a) a chairperson and a deputy chairperson (who must each be a barrister or solicitor of the High Court of not less than 7 years’ practice, whether or not the person holds or has held judicial office); and
 - (b) 5 social workers (not being social workers whose registration or practising certificate is suspended); and
 - (c) at least 1 layperson.

57 Section 117 amended (Suitability of certain people to be appointed)

- (1) In section 117, replace “section 116(1)(a)(iii)”, with “**section 116(1)(b)**”.
- (2) In section 117, replace “Board” with “Minister”.
- (2A) In section 117(a), replace “his or her qualifications” with “the person’s qualifications”.
- (3) Repeal section 117(b).

58 Section 118 amended (Removal of members)

- (1) In section 118(1) and (2), replace “Board” with “Minister” in each place.
- (2) In section 118(2), replace “his or her removal” with “the person’s removal”.

59 Section 119 amended (Hearings by Tribunal)

Replace section 119(1) with:

- (1) For the purposes of a particular hearing, the Tribunal comprises,—
 - (a) as presiding officer, the chairperson of the Tribunal or a deputy chairperson chosen by the chairperson; and

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- (b) of the 5 members who are social workers appointed under **section 116(1)(b)**, 3 members chosen by the chairperson; and
- (c) the layperson appointed under **section 116(1)(c)** or, if 2 or more persons are appointed, 1 of those persons chosen by the chairperson.

Register and Registrar

59A Section 123 amended (Information to be registered)

- (1) After section 123(1)(b), insert:
 - (ba) the person’s electronic address (if the person has one):
- (2) In section 123(3)(b) and (d), replace “restrictions” with “conditions”.
- (3) In section 123(3)(f), delete “particular”.
- (4) In section 123(4), after “must”, insert “, if satisfied that any of the following information has changed or is incorrect.”.
- (5) In section 123(4)(a) and (b), after “changes”, insert “or errors”.

59B Section 123 amended (Information to be registered)

Replace section 123(3) with:

- (3) The following information must also be entered in the Register in respect of a person who is registered:
 - (a) the scope of practice of the social work profession for which the person is registered and the social work services the person is permitted to perform or not permitted to perform under that scope of practice:
 - (b) any condition (including any applicable general condition) to which the person’s individual scope of practice is subject (including any ordered by the Tribunal):
 - (c) particulars of any practising certificate issued to the person:
 - (d) if a person’s registration or practising certificate is suspended (including if ordered by the Tribunal), the fact that it is suspended and any conditions relating to that suspension.

59C Section 125 replaced (Social workers to notify changes of address)

Replace section 125 with:

125 Social workers to notify changes to personal information on Register

- (1) This section applies to the information described in section 123(1)(a) to (c) that is on the Register relating to a social worker.
- (2) If any of that information changes, the social worker must give written notice to the Registrar.

- (3) The written notice must be given to the Registrar within 1 month of the change in name, home or work address, electronic address, or particulars of qualifications.

59D Section 126 repealed (Changes of name)

Repeal section 126.

59E Section 127 amended (Social worker may ask for registration to be cancelled)

Replace section 127(2) with:

- (2) The Board must not cancel a social worker’s registration if—
- (a) disciplinary action against the social worker under this Act has begun or is pending; or
 - (b) the social worker is the subject of an investigation by the Health and Disability Commissioner.

60 Section 129 amended (Revision of Register)

(1AA) In section 129(1)(c), replace “for some other reason” with “for any reason”.

(1) Replace section 129(2) with:

(2) The Registrar must ask by letter addressed to the social worker at his or her last known address and sent by any form of prepaid delivery service that requires an acknowledgement of receipt of delivery from the person to whom it is addressed.

(2) The Registrar must ask—

- (a) by letter addressed to the social worker at their last known address and sent by any form of prepaid delivery service that requires an acknowledgement of receipt of delivery from the person to whom it is addressed; or
- (b) by message sent to an electronic address supplied to the Registrar by the social worker.

(2) Replace section 129(3) with:

(3) If the social worker tells the Registrar in writing that they wish to have their registration cancelled, the Board must (subject to **section 127(2)**) cancel the social worker’s registration.

(3A) Nothing in this section prevents a social worker who is no longer practising as a social worker from remaining on the Register if they wish to do so.

60A Section 131 amended (Cancellation of registration of overseas qualified person for non-residence in New Zealand)

(1) Replace the heading to section 131 with “**Review of registration of overseas qualified person**”.

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(2) In section 131(2), replace “This section” with “Subsection (1)”.

(3) In section 131(3)(a)(iii), replace “statement” with “summary”.

61 Section 132 amended (Cancellation of registration on Board’s direction)

After section 132(1), insert:

(1A) The Board must not give a direction unless—

(a) it is satisfied that the Registrar has made reasonable efforts to give the social worker—

(i) written notice of the Board’s reasons for proposing to give the direction; and

(ii) a copy of any written information on which the Board is relying; and

(iii) a written summary of any other information on which the Board is relying; and

(iv) written notice giving the social worker a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and

(b) the Board has then—

(i) given the social worker a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and

(ii) considered any written or oral submissions that were made to it.

(1B) A person exercising ~~his or her~~ their right to be heard personally is entitled to be accompanied by 1 person of ~~his or her~~ their choice who agrees to attend.

61A Section 133 amended (Removal of qualifications, or cancellation of registration, overseas)

In section 133(2)(b), replace “information” with “written information and a written summary of any other information”.

61B Section 134 amended (Cancellation or suspension not to affect existing liabilities)

In section 134, replace “registration does not affect his or her liability” with “registration or the suspension of their practising certificate does not affect their liability”.

61C Section 135 amended (Board to publish Register)

In section 135(2), after “home addresses”, insert “or electronic addresses”.

61D Section 138 replaced (Registrar to carry out Board’s decisions and comply with directions of Board and Tribunal)

Replace section 138 with:

138 Registrar to comply with directions of Board

Subject to section 139, the Registrar must promptly comply with a direction given by the Board.

61E Section 140 amended (Notice of restrictions or conditions imposed on registration or practising certificate)

- (1) In the heading to section 140, delete “restrictions or”.
- (2) In section 140, delete “restrictions or”.

61F Section 140 replaced (Notice of conditions imposed on registration or practising certificate)

Replace section 140 with:

140 Notice of conditions in individual scope of practice

The Board may direct the Registrar to give to any person who employs or engages a social worker or practises in association with a social worker written notice of a new condition imposed, or the cancellation or variation of an existing condition, by the Board or the Tribunal in that social worker’s individual scope of practice.

Miscellaneous

61G Section 145 amended (Notice and service of documents)

After section 145(1)(b), insert:

- (ba) by sending it to the electronic address provided by the person; or

62 Section 146 amended (Publication of orders)

In section 146(4), replace “or subsection (3) anything in respect of which an order has been made under section 79(2) or section 80(6)”, with “or (3) anything that is the subject of an order under section 79(2) or the particulars or evidence described in **section 80(6)**”.

62A Section 147 amended (Regulations)

- (1) In section 147(1), delete “either or both of”.
- (2) After section 147(1)(a), insert:
 - (aa) regulating the use of identification by social workers when dealing with members of the public:

62B New sections 147A and 147B inserted

After section 147, insert:

147A Power to obtain information

- (1) The chief executive may, if the chief executive has reasonable cause to believe that an offence against **section 148(2) or (3)** has been committed, by written notice require a person—
 - (a) to give the department the information specified in the notice; or
 - (b) to give the department a document in or under that person’s custody or control and to allow the department to make copies of or take extracts from that document; or
 - (c) to give the department copies of or extracts from a document in or under that person’s custody or control.
- (2) A person who receives a notice under this section must comply with it within the period and in the manner stated in the notice and must do so without charge.
- (3) Before issuing a notice, the chief executive must first ask the person in writing to provide the information unless doing so would prejudice the maintenance of the law.
- (4) This section is subject to **section 147B** (relating to privilege).
- (5) In this section and **section 147B**,—

chief executive means the chief executive of the department responsible for administering this Act

department means the department responsible for administering this Act, and includes an employee who is named in a notice given under this section.

147B Privilege

- (1) **Section 147A** does not require a person to give the department information or a document that—
 - (a) would be privileged in a court of law;
 - (b) is subject to legal professional privilege.
- (2) If a person refuses to give the department information or a document on the ground that it is privileged, the department or that person or another person to whom the information or document relates may apply to a District Court Judge for an order determining whether the claim of privilege is valid.
- (3) The Judge may, for the purposes of determining the application, require the information or document to be produced to the court.

63 Section 148 amended (Offences)

- (1) Replace section 148(2) and (3) with:

- (2) A person who contravenes ~~section 6AAA(1) or (2)~~ commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 months or a fine not exceeding \$10,000, or both.
- (1A) After section 148(2), insert:
- (3) A person who knowingly contravenes ~~section 6AAA(3)~~ commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (2) Replace section 148(4) with:
- (4) A person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$10,000, or both, if the person holds an employee or a professional associate out as a social worker, knowing that the employee or associate—
- (a) is not a social worker registered under this Act; or
 - (b) is a social worker registered under this Act—
 - (i) whose registration is suspended; or
 - (ii) who does not hold a current practising certificate; or
 - (iii) who holds a current practising certificate that is suspended.
- (3) In section 148(5), replace “Every registered social worker” with “A social worker”.
- (4) After section 148(5), insert:
- (6) A person commits an offence, and is liable on conviction to a fine not exceeding \$2,000, if the person receives a production notice under ~~section 68B~~ and—
- (a) refuses or fails without reasonable excuse to comply with the notice; or
 - (b) knowingly or recklessly provides information that is false or misleading in any material particular.
- (7) A person commits an offence, and is liable on conviction to a fine not exceeding \$2,000, if the person intentionally and without lawful excuse publishes any information in breach of a suppression order made under section 79(2)(b) to (d) or in breach of ~~section 80(6)~~.

63 Section 148 amended (Offences)

- (1) Replace section 148(4) with:
- (4) A person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$10,000, or both, if they hold an employee or a professional associate out as a social worker, knowing that the employee or associate—
- (a) is not a social worker registered under this Act; or
 - (b) is a social worker registered under this Act—
 - (i) whose registration is suspended; or

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- (ii) who does not hold a current practising certificate; or
 - (iii) who holds a current practising certificate that is suspended.
- (2) In section 148(5), replace “Every registered social worker” with “A social worker”.
- (3) In section 148(5)(b)(i), delete “restriction or”.
- (4) After section 148(5), insert:
- (6) A person commits an offence, and is liable on conviction to a fine not exceeding \$2,000, if they disclose information in breach of section 46(1).
- (7) A person commits an offence, and is liable on conviction to a fine not exceeding \$2,000, if they receive a production notice under **section 68B** and—
- (a) refuse or fail without reasonable excuse to comply with the notice; or
 - (b) knowingly or recklessly provide information that is false or misleading in any material particular.
- (8) A person commits an offence, and is liable on conviction to a fine not exceeding \$2,000, if they intentionally and without lawful excuse publish any information in breach of a suppression order made under section 79(2)(b) to (d) or in breach of **section 80(6)**.

63A Section 148 amended (Offences)

- (1) Replace section 148(2) and (3) with:
- (2) A person who knowingly contravenes **section 6AA(1) or (2)** commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 months or a fine not exceeding \$10,000, or both.
- (3) A person who knowingly contravenes **section 6AA(3)** commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (2) Replace section 148(5)(b) with:
- (b) fails or refuses to comply with a condition imposed by the Board or the Tribunal in their individual scope of practice.
- (3) After **section 148(8)** (as inserted by **section 63**), insert:
- (9) A person commits an offence, and is liable on conviction to a fine not exceeding \$2,000, if they—
- (a) refuse or fail, without reasonable excuse, to comply with a notice given under **section 147A** to the extent that they are capable of complying with it; or
 - (b) purport to comply with a notice given under **section 147A** by knowingly or recklessly giving information that is false or misleading in a material particular.

64 New section 148A inserted (Failure by employer to report to Board not offence)

After section 148, insert:

148A Failure by employer to report to Board not offence

An employer who fails to report to the Board as required by **section 38B, 47A, or 51(1C)** does not commit an offence.

65 Consequential amendments to principal Act

- (1) Amend the provisions in the principal Act as set out in **Parts 1, 3, and 4 of Schedule 1**.
- (2) Amend the provisions in the principal Act as set out in **Part 2 of Schedule 1**.

66 New Schedule 1AA inserted

Insert the **Schedule 1AA** set out in **Schedule 2** of this Act as the first schedule to appear after the last section of the principal Act.

67 Schedule 1 amended

- (1) In Schedule 1, after clause 2(2)(b)(i), insert:

(ia) employers of social workers; and

- (1A) In Schedule 1, replace clause 10(1) with:

- (1) A member who was a social worker registered under this Act when last appointed vacates office if ~~his or her~~ their registration is cancelled or suspended or their practising certificate is suspended.

- (2) In Schedule 1, replace clause 37(1) with:

- (1) At any meeting of the Board, the quorum necessary for transacting business is 4 members, of whom—
 - (a) at least 2 must be social workers; and
 - (b) at least 1 must not be a social worker.

68 Schedule 2 amended

- (1) In Schedule 2, clause 3(1) and (3), replace “Board” with “Minister”.
- (2) In Schedule 2, clause 3(3)(a) and (b), replace “Board’s” with “Minister’s”.
- (3) In Schedule 2, replace clause 9(1)(b) with:
 - (b) by posting it by letter addressed to the social worker at ~~his or her~~ their usual place of residence or business and sent by any form of prepaid delivery service that requires an acknowledgement of receipt of delivery from the person to whom it is addressed.

Part 2

Amendments to other Acts

69 Consequential amendment to Health and Disability Commissioner Act 1994

- (1) This section amends the Health and Disability Commissioner Act 1994.
- (2) In section 2(1), definition of **health practitioner**, replace paragraph (b) with:
 - (b) includes—
 - (i) a former health practitioner within the meaning of that section; and
 - (ii) a person who was conditionally or unconditionally registered, or has held a certificate of registration, under a former health registration enactment; and
 - (iii) a person who is receiving training or gaining experience under the supervision of a health practitioner; and
 - (iv) a social worker within the meaning of the Social Workers Registration Act 2003

70 Amendment to Criminal Records (Clean Slate) Act 2004

- (1) This section amends the Criminal Records (Clean Slate) Act 2004.
- (2) After section 19(3)(d), insert:
 - (da) the Social Workers Registration Board is considering whether the eligible individual is a fit and proper person to be registered or to practise as a social worker under the Social Workers Registration Act 2003; or

Schedule 1
Consequential amendments to principal Act

s 65

Part 1
**Amendments consequential on change of term registered social
worker to social worker**

Subpart 1—Replacing “registered social worker” with “social worker”

Replace “registered social worker” with “social worker” in the following provisions:

Section 4, definition of **particular condition**

Section 20(1) in each place

Section 22(1) and (3)

Section 26(1)

Section 27(3)(a)

Section 38(1)(b)(ii)

Heading to section 45

Section 45(1) and (2)

Heading to section 49

Section 49(1), (2), and (3)

Section 55(1)

Section 57(1)

Section 59(1)

Section 62

Section 66(1)(a)

Section 69

Section 70(1)

Section 71(1)(a)

Section 72(1)(a)

Section 75(1)

Section 76(1)

Section 77(1)

Section 78(1)

Section 82(1), (2), (3), and (4)

Section 83(1)(a)(i)

Section 84(1)
Section 95(1)
Section 108(1)(h)
Section 109(1)
~~Section 125(1) and (2)~~
~~Section 126~~
Section 127(1)
Section 128(1) and (3) in each place
Section 129(1) ~~and (3)~~
Section 131(1) and (7)
Section 132(1)
Section 133(1), (2), (6)(b)(ii), and (7)
Section 140 in each place
Schedule 1, clause 10(2), (3), and (4) in each place
Schedule 2, clause 15

Subpart 2—Replacing “registered social workers” with “social workers”
Replace “registered social workers” with “social workers” in the following provisions:

Section 3(b)(ii)
~~Section 4, definition of **particular condition**~~
Section 29(1)
Heading to section 59
Section 66(1)(a)
Section 99(1)(d), (h), (n), (o), and (p)(ii)
Section 105(1)(a)
Section 115 ~~(a) and (b)~~
Section 135(2)

Subpart 3—Replacing “registered social worker’s” with “social worker’s”

Replace “registered social worker’s” with “social worker’s” in the following provisions:

Section 21(1)
~~Section 24~~
Section 39(1) and (2)

Section 40(1)

Section 41(1)

Section 133(6)(b)(i)

Section 134

~~Section 138(1)(a)(i), (ii), (iii), (iv), (v), and (vi) and (b)(i)~~

Part 2

Amendments consequential on change to mandatory registration for social workers

Subpart 1—Replacing “practise social work” with “practise as a social worker”

Replace “practise social work” with “practise as a social worker” in the following provisions:

Section 6(1)(a), (b), and (c)(i) and (ii)

Section 7(a)(i) and (ii), (c)(i) and (ii), (f), (g), and (h)

~~Section 11(1)(a)~~

Section 13(1)(b)(ii), (iii), and (iv)(A) and (B)

Section 15(a), (c), and (d)

Section 30(1)(b)(iii) and **(2A)**

Heading to section 38

Section 38(1)(b)(i) and (3)

Heading to section 39

Section 39(1) and (2) in each place

Section 40(1) and (1)(a)(i) and (ii)

Section 41(1)

Section 42(1)(a)

Heading to section 47

Section 47(3) and (3)(b)

Heading to section 48

Section 48

Section 49(1)(a) and (b) and (5)(b)

Section 50(1)

Cross-heading above section 51

Heading to section 51

Section 71(1)(a)

Section 131(8)

Subpart 2—Replacing “practising social work” with “practising as a social worker”

Replace “practising social work” with “practising as a social worker” in the following provisions:

Section 6(1)(d)

Section 7(e)

Section 13(1)(b)(i) and (iv)

Section 30(1)(b)(ii)

Section 129(1)(a) ~~and (3)~~

Part 3

Amendments consequential on change in name of complaints assessment committees to professional conduct committees

Subpart 1—Replacing “complaints assessment committee” with “professional conduct committee”

Replace “complaints assessment committee” with “professional conduct committee” in the following provisions:

Section 66(1)(a) and (b), (3), (4), and (5)

Section 67(1)

Section 68

Section 69 in each place

Heading to section 70

Section 70(1)

Heading to section 71

Section 71(1)

Section 72(1), (2), and (3)

Section 74

Section 75(1)(b), (2)(a), (5), and (6)

Section 76(1)(a)

Section 77(2)

Section 83(1)(e)(ii) and (iii)

Section 86(1)(a)(ii)

Section 88(2) and (3)(c) in each place

Section 141(1)(c)

Section 143 in each place

Section 144(1)

Subpart 2—Replacing “complaints assessment committees” with
“professional conduct committees”

Replace “complaints assessment committees” with “professional conduct committees” in the following provisions:

Heading to section 143

Section 147(1)(a)

Part 4

Amendments consequential on transfer of functions from Tribunal to Board

Subpart 1—Replacing “Tribunal” with “Board”

In the heading to section 62, replace “**Tribunal**” with “**Board**”.

Subpart 2—Replacing “chairperson of the Tribunal” with “Board”

Replace “chairperson of the Tribunal” with “Board” in the following provisions:

Section 62

Section 64(1)(a) and (b)

Section 69

Section 70(1)

Subpart 3—Replacing “chairperson” with “Board”

In section 70(2), replace “chairperson” with “Board”.

Schedule 2
New Schedule 1AA inserted

s 66

Schedule 1AA
Transitional, savings, and related provisions

s 4A

Part 1
Provisions relating to Social Workers Registration Legislation Act 2017

- 1 Registration based on practical experience under section 13 following commencement of mandatory registration provisions and before repeal of section 13**
- (1) For the purpose of this clause, **commencement date** means the date on which **section 8** of the Social Workers Registration Legislation Act **2017** comes into force. (That section inserts new **sections 6AAA and 6AAB** into this Act, which require mandatory registration for social workers.)
- (2) This clause applies to a person who makes an application to be registered as a social worker based on practical experience under section 13 of this Act on or after the commencement date if the Board considers that—
- (a) the criteria in section 13 are likely to be met by the applicant; but
- (b) it cannot make a final decision about full registration until further information is provided to it by 1 or both of the following means:
- (i) the production of additional evidence on any matter relevant to the application by the applicant;
- (ii) the completion of a competence assessment by the applicant.
- (3) The Board may decide that the applicant can be registered temporarily while further information is obtained and provided to the Board, and—
- (a) section 11 of this Act applies; and
- (b) section 15 of this Act does not apply.
- 2 Registration of persons based on practical experience under section 13 following repeal of section 13**
- (1) For the purpose of this clause, **commencement date** means the date on which **section 10** of the Social Workers Registration Legislation Act **2017** comes into force. (That section repeals section 13 of this Act.)

- (2) **Subclause (3)** applies to a person who was registered as a social worker based on practical experience under section 13 of this Act before the commencement date.
- (3) The person's registration continues to have effect on and after the commencement date as if the person had been registered under section 12 of this Act, subject to the other provisions of this Act (as the Act reads on and after the commencement date).
- (4) **Subclause (5)** applies to a person who makes an application to be registered as a social worker based on practical experience under section 13 before the commencement date but the application has not been decided by the Board by the commencement date.
- (5) The application must be considered on or after the commencement date under the criteria in section 13 as it read immediately before the commencement date.

2AA Social workers who are registered immediately before implementation of scope or scopes of practice for social work profession to be treated as having authorised individual scope of practice

- (1) For the purpose of this clause, **commencement date** means the date on which **section 8** of the Social Workers Registration Legislation Act **2017** comes into force.
- (2) This clause applies to a person who is registered as a social worker under this Act immediately before the commencement date.
- (3) On and after the commencement date, the person is—
 - (a) to be treated as being authorised under **section 8A** to practise within a scope of practice of the social work profession notified under **section 5A** in relation to any social work service listed in that scope of practice that was undertaken by them prior to the commencement date; and
 - (b) permitted to continue to perform that social work service.
- (4) If the practice of a social work service referred to in **subclause (3)(a)** was subject to a condition on a social worker's practising certificate immediately before the repeal date, the authorisation under that subclause is to be treated as being subject to that same condition.
- (5) At any time at the Board's discretion and otherwise in accordance with the provisions of this Act, the Board may cancel or vary a condition imposed on the authorisation of a social worker under this clause or include a new condition on that authorisation.

2A Complaints assessment committees

- (1) For the purpose of this clause, **commencement date** means the date on which **section 45** of the Social Workers Registration Legislation Act 2017 comes into force.

Proposed amendments to

- (2) This clause applies to a complaints assessment committee that has been appointed but has yet to make a determination about a complaint or notice of conviction that has been referred to it, or is considering any other matter, immediately before the commencement date.
- (3) Despite anything to the contrary in this Act, a complaints assessment committee is to be treated on and after the commencement date as a professional conduct committee under this Act.
- (4) A complaint or notice of conviction that is being considered by a complaints assessment committee and is yet to be determined immediately before the commencement date must be determined under section 71 as it reads on and after the commencement date.
- (5) Any other matter being considered by a complaints assessment committee and that is yet to be concluded immediately before the commencement date must be dealt with under the provisions of this Act as those provisions read on and after the commencement date.
- (6) Any determination made and any other thing done by a complaints assessment committee before the commencement date is to be treated as if it were done by a professional conduct committee under this Act.

3 Continuation of membership of Board

- (1) For the purpose of this clause, **commencement date** means the date on which **section 55** of the Social Workers Registration Legislation Act **2017** comes into force.
- (2) This clause applies to a person who is a member of the Board immediately before the commencement date.
- (3) Despite anything to the contrary in this Act, including in section 106 as it reads on and after the commencement date, the person continues as a member of the Board until the expiry of ~~his or her~~ their term or until the occurrence of any of the events described in section 45 of the Crown Entities Act 2004.

4 Continuation of membership of Tribunal

- (1) For the purpose of this clause, **commencement date** means the date on which **section 56** of the Social Workers Registration Legislation Act **2017** comes into force.
- (2) This clause applies to a person who is the chairperson, a deputy chairperson, or other member of the Tribunal immediately before the commencement date.
- (3) Despite anything to the contrary in this Act, including in section 116 as it reads on and after the commencement date, the person—
 - (a) continues as the chairperson or a deputy chairperson until ~~his or her~~ their term of appointment expires; or

- (b) continues as a member until 5 years has elapsed since the date on which ~~he or she was~~ they were appointed in accordance with section 118(1)(b) of this Act.