

Reprint  
as at 28 February 2019



## Social Workers Registration Act 2003

Public Act 2003 No 17  
Date of assent 9 April 2003  
Commencement see section 2

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Social Development.**

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**1 Title**

This Act is the Social Workers Registration Act 2003.

**Part 1**

**Preliminary**

**2 Commencement**

- (1) Sections 6 to 149 and the schedules come into force on a date appointed by the Governor-General by Order in Council; and—
  - (a) different dates may be appointed for different provisions; but

- (b) the date appointed for any of sections 97 to 113 or for Schedule 1 must be no later than the day 12 months after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

Section 2(1): sections 97 to 113, 137, 141 to 149, Schedule 1, and Schedule 3 (except for the provision relating to the Health and Disability Commissioner Act 1994) brought into force, on 1 November 2003, by the Social Workers Registration Act Commencement Order 2003 (SR 2003/250).

Section 2(1): so much of the Act as not in force immediately before the close of 30 September 2004 brought into force, on 1 October 2004, by the Social Workers Registration Act Commencement Order 2003 (SR 2003/250).

### 3 Purpose

The purpose of this Act is—

- (a) to protect the safety of members of the public, by prescribing or providing for mechanisms to ensure that social workers are—
- (i) competent to practise; and
  - (ii) accountable for the way in which they practise; and
- (b) for the purposes of paragraph (a), to create a framework for the registration of social workers in New Zealand, and—
- (i) establish a board to register social workers, and provide for its powers; and
  - (ii) establish a tribunal to consider complaints about social workers; and
- (c) to provide for the Board to promote the benefits of registration of social workers—
- (i) to departments of State, other instruments of the Crown, other bodies and organisations that employ social workers, and the public; and
  - (ii) among people practising social work; and
- (d) to enhance the professionalism of social workers.

Section 3(b)(ii): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### 4 Interpretation

In this Act, unless the context otherwise requires,—

**Board** means the Social Workers Registration Board established by section 97

**certificate of registration** means a certificate given under section 20

**code of conduct** means the code issued and maintained under section 105

**competence assessment** means an assessment set under section 42

**direction** means written direction



**Director of Proceedings** means the person for the time being designated under section 15(1) of the Health and Disability Commissioner Act 1994 as the Director of Proceedings

**Health and Disability Commissioner** means the Health and Disability Commissioner appointed under section 8 of the Health and Disability Commissioner Act 1994

**health services or disability services** means health services or disability services within the meaning of the Health and Disability Commissioner Act 1994

**limited registration** means provisional or temporary registration

**medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

**Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

**practising certificate**—

- (a) means a practising certificate issued under section 28(1) or section 33(3)(b); and
- (b) includes an interim practising certificate issued under section 33(3)(a) or section 37

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

**recognised New Zealand qualification** means a New Zealand educational qualification for the time being recognised by the Board as appropriate for social workers working in New Zealand

**Register** means the register of social workers kept under section 121

**Registrar** means the Registrar of the Register of Social Workers for the time being holding office under section 137(1)

**registration** means the entry in the Register of the information stated in section 123(1) in respect of a person; and **re-registration** has a corresponding meaning

**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

**transition day** means the day 6 months after the commencement of Parts 2 to 4

**Tribunal** means the Social Workers Complaints and Disciplinary Tribunal established by section 114

**working day** means a day of the week other than—

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, and Labour Day; and
- (b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (c) a day in the period commencing on 20 December in any year and ending with 15 January in the following year.

Section 4 **medical practitioner**: substituted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 4 **particular condition**: repealed, on 28 February 2019, by section 5(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 4 **prescribed qualification**: inserted, on 28 February 2019, by section 5(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 4 **registered social worker**: repealed, on 28 February 2019, by section 5(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 4 **scope of practice**: inserted, on 28 February 2019, by section 5(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 4 **social work service**: inserted, on 28 February 2019, by section 5(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 4 **social worker**: inserted, on 28 February 2019, by section 5(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 4 **working day**: replaced, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

#### **4A Transitional, savings, and related provisions**

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

Section 4A: inserted, on 28 February 2019, by section 7 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **5 Act binds the Crown**

This Act binds the Crown.

### **Part 1A**

#### **Scopes of practice for social work profession and prescribed qualifications**

Part 1A: inserted, on 28 February 2019, by section 8 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **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.

Section 5A: inserted, on 28 February 2019, by section 8 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **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.

Section 5B: inserted, on 28 February 2019, by section 8 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **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.

Section 5C: inserted, on 28 February 2019, by section 8 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **Part 2**

### **Registration and practising certificates**

#### *Entitlement to registration*

#### **6 Entitlement to registration of New Zealand-qualified social workers**

- (1) A person who has a recognised New Zealand qualification is entitled to be registered if the Board is satisfied—
  - (a) that his or her competence to practise social work has been found satisfactory under Part 3; and
  - (b) that he or she is a fit and proper person to practise social work; and
  - (c) that (whether because of the inclusion of an appropriate component in that qualification, or as a result of his or her satisfactory completion of a separate course or courses of training) he or she—
    - (i) is competent to practise social work with Māori; and
    - (ii) is competent to practise social work with different ethnic and cultural groups in New Zealand; and
  - (d) that he or she has enough practical experience in practising social work.
- (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.

Section 6(2): inserted, on 28 February 2019, by section 12 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## 7 Entitlement to registration of overseas-qualified social workers

A person who does not have a recognised New Zealand qualification is entitled to be registered if the Board is satisfied that—

- (a) he or she has an overseas qualification equivalent to a recognised New Zealand qualification (except to the extent that it may not include a component whose satisfactory completion ensures that its holder—
  - (i) is competent to practise social work with Māori; and
  - (ii) is competent to practise social work with different ethnic and cultural groups in New Zealand); and
- (b) either—
  - (i) he or she is registered or licensed as a social worker, or as the practitioner of a profession equivalent to that of a social worker, in a State other than New Zealand (whether the State in which the equivalent qualification was obtained or some other State); or
  - (ii) there are good reasons for his or her not being so registered or licensed; and
- (c) he or she has satisfactorily completed a course or courses of training ensuring that he or she—
  - (i) is competent to practise social work with Māori; and
  - (ii) is competent to practise social work with different ethnic and cultural groups in New Zealand; and
- (d) he or she can speak and write English reasonably effectively, and understand spoken and written English reasonably well; and
- (e) he or she has enough practical experience in practising social work; and
- (f) his or her competence to practise social work has been found satisfactory under Part 3; and
- (g) he or she is a fit and proper person to practise social work; and
- (h) he or she intends to live and practise social work in New Zealand.

### *Applications*

## 8 Applications for registration

- (1) An application for registration must be made to the Registrar on a form provided by the Board.
- (2) The application must be accompanied by—
  - (a) the application fee (if any) set by the Board; and
  - (b) any evidence of the matters referred to in section 6 or section 7 the Board requires.

- (3) The application may be accompanied by any other material relating to the matters referred to in section 6 or section 7 the applicant wishes.
- (4) Promptly after receiving a valid application for registration, the Registrar must give it to the Board.
- (5) Sections 84(4) and 139(1) override subsection (4).

## **9 Consideration of applications by Board**

Promptly after receiving a valid application for registration from the Registrar, the Board must consider it, and decide—

- (a) whether the applicant should be registered; and
- (b) if it decides that the applicant should be registered,—
  - (i) whether he or she should be registered fully, provisionally, or temporarily; and
  - (ii) whether he or she should be registered without conditions, or subject to conditions.

Section 9(b)(ii): amended, on 28 February 2019, by section 16(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 9(b)(ii): amended, on 28 February 2019, by section 16(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **10 Provisional registration**

- (1) A person registered provisionally—
  - (a) must always be registered subject to conditions appropriate to his or her circumstances; and
  - (b) may also be registered subject to other conditions.
- (2) The duration of any period of provisional registration of a person to whom section 14 applies (or of any period for which the provisional registration of such a person is renewed) must be such that, when it is added to the duration of any previous period or periods of provisional registration of the person, the total is no more than 8 years.
- (3) The duration of any period of provisional registration of a person to whom section 14 does not apply (or of any period for which the provisional registration of such a person is renewed)—
  - (a) must be no more than 2 years; and
  - (b) must be such that, when it is added to the duration of any previous period or periods of limited registration of the person, the total is no more than 8 years.

Section 10(1)(b): amended, on 28 February 2019, by section 18(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 10(2): amended, on 28 February 2019, by section 18(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 10(3): amended, on 28 February 2019, by section 18(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **11 Temporary registration**

- (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.
- (2) The duration of any period of temporary registration of a person (or of any period for which a person's temporary registration is renewed)—
  - (a) must be no more than 6 months; and
  - (b) must be such that, when it is added to the duration of any previous period or periods of limited registration of the person, the total is no more than 3 years.

Section 11(1): replaced, on 28 February 2019, by section 20 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### *Criteria*

## **12 Criteria for full registration**

The Board must decide that the applicant should be registered fully if he or she meets the criteria in section 6 or section 7.

Section 12: amended, on 28 February 2019, by section 22 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **13 Board may recognise practical experience in certain cases**

- (1) The Board may decide that the applicant should be registered fully if—
  - (a) he or she has neither a recognised New Zealand qualification nor an overseas qualification equivalent to a recognised New Zealand qualification; but
  - (b) the Board is satisfied that—
    - (i) his or her practical experience in practising social work in New Zealand is enough to compensate for the lack of such a qualification; and
    - (ii) his or her competence to practise social work has been found satisfactory under Part 3; and
    - (iii) he or she is a fit and proper person to practise social work; and
    - (iv) that (whether as a result of his or her satisfactory completion of a course or courses of training, or because his or her practical experience in practising social work in New Zealand is enough to compensate for not having completed such a course) he or she—
      - (A) is competent to practise social work with Māori; and

- (B) is competent to practise social work with different ethnic and cultural groups in New Zealand.
- (2) Subsection (1) overrides section 12.

#### **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 they are a fit and proper person to practise as a social worker, meet some of the other criteria in section 6 or 7, and 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 they—
  - (i) have already made satisfactory progress in working towards meeting all the criteria in section 6 or 7; or
  - (ii) have good reasons for not having made satisfactory progress in doing so.

Section 14: replaced, on 28 February 2019, by section 25 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **15 Criteria for temporary registration**

The Board must decide that the applicant should be registered temporarily if satisfied that he or she—

- (a) is a fit and proper person to practise social work; and
- (b) can speak and write English reasonably effectively, and understand spoken and written English reasonably well; and
- (c) is or will be visiting New Zealand temporarily, and wishes to practise social work at a particular institution or place in New Zealand; and
- (d) has enough knowledge and practical experience of social work to practise social work at the institution or place.

Section 15: amended, on 28 February 2019, by section 26 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **16 Applications by certain people previously registered**

- (1) If the Tribunal has under section 84(1)(b) imposed conditions that a person must meet before being re-registered, the Board must not decide that the person should be registered unless satisfied that he or she has met the conditions.
- (2) Subsection (1) overrides sections 6, 7, and 12 to 15.



## **17 Board to give reasons**

- (1) If the Board decides that the applicant should be registered subject to conditions, it must state—
  - (a) the conditions; and
  - (b) its reasons for imposing them.
- (2) If the Board decides that the applicant should be registered subject to conditions first being met, it must state—
  - (a) the conditions; and
  - (b) the time within which each of them must be met; and
  - (c) its reasons for imposing them.
- (3) If the Board decides that the applicant's registration should be provisional or temporary, it must state—
  - (a) its reasons; and
  - (b) the duration of the registration.
- (4) If the Board decides that the applicant should not be registered, it must state its reasons.

Section 17(1): amended, on 28 February 2019, by section 27(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 17(1)(a): amended, on 28 February 2019, by section 27(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 17(2): amended, on 28 February 2019, by section 27(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### *Registration generally*

## **18 Registrar to register successful applicants**

Promptly after the Board has decided that a person should be registered, the Registrar must register him or her (but, if section 17(2) applies, register them only when the conditions imposed have been met), and give him or her written notice stating that he or she has been registered, and—

- (a) any conditions to which his or her registration is subject; and
- (b) in the case of conditions that must be met before the applicant can be registered, the time within which each of them must be satisfied; and
- (c) the Board's reasons for imposing the conditions; and
- (d) if his or her registration is provisional or temporary,—
  - (i) the fact that it is provisional or temporary; and
  - (ii) its duration; and
  - (iii) the Board's reasons for directing provisional or temporary registration.

Section 18: amended, on 28 February 2019, by section 29(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 18(a): amended, on 28 February 2019, by section 29(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 18(b): amended, on 28 February 2019, by section 29(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 18(c): amended, on 28 February 2019, by section 29(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **19 Registrar to notify unsuccessful applicants**

Promptly after the Board has decided that a person should not be registered, the Registrar must give him or her written notice stating—

- (a) that the Board has decided that he or she should not be registered; and
- (b) the Board's reasons for its decision.

### *Certificates of registration*

Heading: inserted, on 28 February 2019, by section 32 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **20 Certificates of registration**

- (1) The Registrar must give a certificate of registration to any social worker (other than a social worker whose registration is suspended) who asks for one, and pays the fee (if any) set by the Board.
- (2) The certificate—
  - (a) must be signed and dated by the Registrar; and
  - (b) must state all the information about the social worker the Board requires for certificates of registration.
- (3) If the social worker has only provisional or temporary registration, the certificate must say so.

Section 20(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **21 Surrender of certificate of registration**

- (1) The cancellation or suspension of a social worker's registration cancels any certificate of registration he or she holds.
- (2) A person must deliver to the Registrar the certificate of registration he or she holds, within 14 days after the Registrar—
  - (a) gives him or her notice that his or her registration has been cancelled or suspended; or
  - (b) gives him or her—
    - (i) notice that conditions (or varied conditions) have been placed on his or her registration; and
    - (ii) a new certificate of registration containing the current conditions.

Section 21(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 21(2)(b)(i): amended, on 28 February 2019, by section 33(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 21(2)(b)(ii): amended, on 28 February 2019, by section 33(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 21(2)(b)(ii): amended, on 28 February 2019, by section 33(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### *Limited registration*

## **22 Renewal of limited registration**

- (1) A social worker with limited registration may give the Board a written application to renew that registration.
- (2) If the application is accompanied by the application fee (if any) set by the Board, the Board may direct the Registrar to—
  - (a) renew the registration until a day (not more than 6 months after the day on which it would otherwise expire) stated in the notice; and
  - (b) give a further certificate of registration.
- (3) Subsection (2) does not apply to a social worker whose registration is suspended.
- (4) Subsection (2) is subject to subsection (3), and to sections 10(2) and 139(1).

Section 22(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 22(3): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **23 Criteria for renewal of limited registration**

- (1) The Board must not direct the renewal of provisional registration unless satisfied,—
  - (a) in the case of an applicant to whom section 14 applies, that he or she—
    - (i) still intends to work towards meeting the criteria in section 6 or section 7 within the time frame originally set by the Board; or
    - (ii) still intends to work towards meeting the criteria in section 6 or section 7, but within a time frame longer than that originally set by the Board, and has good reasons for needing the longer time frame; and
  - (b) in any other case, that the applicant is still in the process of working towards meeting the criteria in section 6 or section 7, and—
    - (i) has made satisfactory progress in doing so; or
    - (ii) has good reasons for not having made satisfactory progress in doing so.

- (2) The Board must not direct the renewal of temporary registration unless satisfied that the applicant still meets the criteria in section 15.

Section 23(1)(a): amended, on 28 February 2019, by section 34 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **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—

- (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.

Section 24: replaced, on 28 February 2019, by section 35 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### *Practising certificates*

#### **25 Practising registered social workers to hold practising certificates**

A person registered under this Act may practise as a social worker only if he or she holds a current practising certificate.

Section 25: amended, on 28 February 2019, by section 36 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **26 Applications for practising certificates**

- (1) A social worker may apply to the Registrar for a practising certificate.
- (2) An application for a practising certificate must—
  - (a) be made on a form provided by the Board for the purpose; and
  - (b) be accompanied by the fee (if any) set by the Board.
- (3) The form may require any information the Board thinks appropriate, including a statement specifying whether the applicant is, at the date of the application, employed as a social worker.

Section 26(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **27 Effect of making compliant application**

- (1) If an application for a practising certificate complies with section 26 and subsection (3) does not apply to the applicant, the applicant must be treated as holding a practising certificate between the time the Registrar receives the application and the earlier of—
  - (a) the time the Registrar issues a practising certificate to the applicant; and
  - (b) the time the Registrar notifies the applicant in writing that he or she refuses to issue a practising certificate.
- (2) If an application for a practising certificate complies with section 26 but subsection (3) applies to the applicant, the applicant does not hold a practising certificate until the Registrar issues one to him or her.
- (3) This subsection applies to an applicant for a practising certificate if—
  - (a) he or she is a social worker whose registration is suspended; or
  - (b) *[Repealed]*
  - (c) the Registrar—
    - (i) has previously notified the applicant that he or she refuses to issue a practising certificate to the applicant; and
    - (ii) has not later issued a practising certificate to the applicant.

Section 27(3)(a): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 27(3)(b): repealed, on 28 February 2019, by section 38 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **28 Issue of practising certificates**

- (1) On receiving an application that complies with section 26, the Registrar must issue a practising certificate either in hard copy or electronically to the applicant.
- (2) Sections 30 and 139 override subsection (1).

Section 28(1): amended, on 28 February 2019, by section 39 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**29 Board may adopt general conditions**

- (1) The Board may adopt conditions subject to which all practising certificates, or the practising certificates of all social workers of a particular description, must be issued.
- (2) Conditions may relate to—
  - (a) working under supervision; or
  - (b) professional development (*see* section 38A).
- (3) Subsection (2) does not limit the generality of subsection (1).

Section 29(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 29(2)(b): amended, on 28 February 2019, by section 40 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**30 Restrictions on issue of practising certificates**

- (1) The Registrar must refer an application for a practising certificate to the Board if he or she—
  - (a) believes on reasonable grounds that—
    - (i) the applicant has not completed a competence assessment required by this Act; or
    - (ii) the applicant has completed a competence assessment required by this Act, but the results are not yet available; or
    - (iii) the applicant has completed a competence assessment required by this Act, and the results seem unsatisfactory; or
    - (iv) the applicant has previously held a practising certificate, but has not held a practising certificate within the 3 years immediately before the date of the application; or
  - (b) suspects on reasonable grounds that the applicant—
    - (i) has at any time failed to maintain a reasonable standard of professional competence; or
    - (ii) has not been practising social work at any time within the 3 years immediately before the date of the application; or
    - (iii) is not a fit and proper person to practise social work.
- (2) The Registrar may refer an application for a practising certificate to the Board if the applicant was first registered within the 3 years immediately before the date of the application.
- (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 as a social worker.

- (3) The Registrar may refuse to issue a practising certificate if satisfied that any information included in the application for it is false or misleading.

(4) *[Repealed]*

Section 30(1)(b)(ii): amended, on 28 February 2019, by section 42(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 30(2A): inserted, on 28 February 2019, by section 42(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 30(4): repealed, on 28 February 2019, by section 42(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### 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 47.
- (2) *See* section 32 for procedural requirements and section 33 for the terms of the Board's decision.

Section 31: replaced, on 28 February 2019, by section 44 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### 32 Procedure for consideration

- (1) Subsections (2) and (3) apply if the Board decides that it should consider whether to direct the Registrar to—
- (a) issue a practising certificate subject to conditions; or
  - (b) refuse to issue a practising certificate.
- (2) The Board must give the applicant concerned a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative.
- (3) The Registrar must give the applicant—
- (a) written notice that—
    - (i) the Board is considering whether to direct the Registrar to issue a practising certificate subject to conditions, or to direct the Registrar to refuse to issue a practising certificate; and
    - (ii) the applicant has a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and
  - (b) a copy of any written information and a written summary of any other information on which the Board is relying.

- (4) The notice must also state the substance of the grounds on which the Board is considering whether to act.
- (5) 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.
- (6) The Board may permit a person exercising his or her right to be heard personally to be accompanied by any number of people of his or her choice who agree to attend, in addition to the person by whom he or she is entitled to be accompanied by subsection (5).

Section 32(1)(a): amended, on 28 February 2019, by section 45(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 32(3)(a)(i): amended, on 28 February 2019, by section 45(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 32(3)(b): amended, on 28 February 2019, by section 45(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **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, if it is satisfied that the applicant is competent to practise as a social worker and is fit to practise as a social worker in accordance with his or her registration without conditions:
  - (b) the Board must direct the Registrar to issue a practising certificate to the applicant subject to conditions, if it is satisfied that the applicant is both competent and fit to practise as a social worker in accordance with his or her registration only subject to those conditions:
  - (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.
- (2) If the Board gives a direction under subsection (1)(c),—
  - (a) the direction must state the Board's reasons; and
  - (b) the Registrar must give the applicant notice of the direction and reasons.
- (3) 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; and



- (b) if the conditions stated by the Board are later met, the Registrar may issue a practising certificate to the applicant and cancel the interim practising certificate.

Section 33(1)(a): amended, on 28 February 2019, by section 47(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 33(1)(a): amended, on 28 February 2019, by section 47(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 33(1)(a): amended, on 28 February 2019, by section 47(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 33(1)(b): amended, on 28 February 2019, by section 47(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 33(1)(b): amended, on 28 February 2019, by section 47(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 33(1)(b): amended, on 28 February 2019, by section 47(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 33(1)(b): amended, on 28 February 2019, by section 47(5) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 33(1)(c): replaced, on 28 February 2019, by section 47(6) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **34 Currency of practising certificates**

- (1) A practising certificate is in force for a period decided by the Board (generally or in any particular case).
- (2) The period must be stated in the certificate, and must be—
- (a) no longer than 4 months from the day the certificate is issued, in the case of an interim practising certificate; and
- (b) no longer than 1 year from the day the certificate is issued, in any other case.
- (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.

Section 34(3): replaced, on 28 February 2019, by section 49 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **35 Conditions on practising certificates**

- (1) If a practising certificate relates to a person whose registration is subject to conditions, the Registrar—
- (a) must endorse the conditions on it; or
- (b) must—
- (i) note on it that the person's registration is subject to the conditions stated in the notice attached to it; and
- (ii) attach to it a notice stating all the conditions.
- (2) If a practising certificate is subject to conditions, the Registrar—

- (a) must endorse the conditions on it; or
  - (b) must—
    - (i) note on it that it is subject to the conditions stated in the notice attached to it; and
    - (ii) attach to it a notice stating all the conditions.
- (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.

Section 35(1): amended, on 28 February 2019, by section 50(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(1)(a): amended, on 28 February 2019, by section 50(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(1)(b)(i): amended, on 28 February 2019, by section 50(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(1)(b)(i): amended, on 28 February 2019, by section 50(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(1)(b)(ii): amended, on 28 February 2019, by section 50(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(2): amended, on 28 February 2019, by section 50(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(2)(a): amended, on 28 February 2019, by section 50(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(2)(a): amended, on 28 February 2019, by section 50(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(2)(b)(i): amended, on 28 February 2019, by section 50(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(2)(b)(i): amended, on 28 February 2019, by section 50(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(2)(b)(ii): amended, on 28 February 2019, by section 50(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 35(3): inserted, on 28 February 2019, by section 50(5) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **36 Surrender of practising certificates**

- (1) This subsection applies to a practising certificate if—
- (a) it is cancelled or suspended; or
  - (b) it is required for endorsement or noting of changes to conditions under section 35(3); or
  - (c) its holder’s registration is—
    - (i) cancelled under any of sections 24, 83(1)(a)(i), 127, 128, 129, 131, 132, and 133(6)(b)(ii); or
    - (ii) suspended under any of sections 45(1)(b)(ii), 49(2)(b), 57(2)(b)(ii), 57A, 77(1)(a), 83(1)(a)(i), and 133(6)(b)(i).

- (2) If subsection (1) applies to the holder of a practising certificate that was issued in hard copy, he or she (or, in the case of a holder who has died, his or her personal representative) must deliver it to the Registrar within 14 days of receiving from the Registrar notice of the cancellation, suspension, or requirement for endorsement or noting of changes to conditions (unless any of the things referred to in that subsection have been lifted or revoked).
- (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.

Section 36(1)(b): amended, on 28 February 2019, by section 53(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 36(1)(c)(ii): amended, on 28 February 2019, by section 53(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 36(1)(c)(ii): amended, on 28 February 2019, by section 53(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 36(2): amended, on 28 February 2019, by section 53(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 36(2): amended, on 28 February 2019, by section 53(5) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 36(3): inserted, on 28 February 2019, by section 53(6) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **37 Interim practising certificates**

- (1) An interim practising certificate—
  - (a) may only be issued pursuant to a direction under section 33(3)(a); and
  - (b) may be issued subject to any conditions the Board thinks fit.
- (1A) An interim practising certificate may be issued either in hard copy or electronically.
- (2) An interim practising certificate is cancelled by the issue to its holder of a practising certificate that is not an interim practising certificate.
- (3) The Board may, at any time and for any reason, direct the Registrar to give the holder of an interim practising certificate notice of—
  - (a) the cancellation of the certificate; and
  - (b) the reasons for the cancellation.
- (4) A cancellation under subsection (3) takes effect when the holder is given the notice (*see* section 145).

Section 37(1A): inserted, on 28 February 2019, by section 55(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 37(4): amended, on 28 February 2019, by section 55(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## Part 3 Competence and fitness

### *Competence*

#### **38 Competence to practise social work**

- (1) At any time, the Board must find a person's competence to practise as a social worker is satisfactory for the purposes of this Act if—
- (a) they have completed a competence assessment required by the Board for the purpose of determining whether their competence to practise as a social worker is satisfactory for the purposes of this Act; and
  - (b) in the Board's opinion, reached in the light of the outcome of the assessment, he or she—
    - (i) has the skill and knowledge required to practise social work in accordance with his or her registration (or proposed registration); and
    - (ii) meets the professional standards reasonably to be expected of a social worker.
- (2) The Board may direct the Registrar to arrange for the applicants for registration to complete competence assessments for the purposes of subsection (1)(a).
- (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.
- (3) Subsection (1) does not prevent the Board, when reviewing under section 39 a person's competence to practise social work, from concluding, without the person's having completed a competence assessment, that it has no reason to believe that his or her competence may be unsatisfactory.

Section 38(1): amended, on 28 February 2019, by section 57(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 38(1): amended, on 28 February 2019, by section 57(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 38(1)(a): replaced, on 28 February 2019, by section 57(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 38(1)(b)(ii): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 38(2A): inserted, on 28 February 2019, by section 57(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **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 must, from time to time, 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 a social worker's practice, or the practice of each of the social workers in a class, meets 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 recognising ways of undertaking professional development or 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.

Section 38A: inserted, on 28 February 2019, by section 58 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**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 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.
- (3) 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.
- (4) 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.
- (5) 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 the employer has taken to assist the social worker and the outcome of the assistance.
  - (6) 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.
- Section 38B: inserted, on 28 February 2019, by section 58 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **39 Reviews of competence to practise social work**

- (1) The Board may at any time review a social worker's competence to practise social work, including if the Board receives information that reflects adversely on the social worker's competence, for example, a report under section 38B.
- (2) Promptly after being notified of a determination under section 71(1)(a) that the Board should review a social worker's competence to practise social work, the Board must review his or her competence to practise social work.

Section 39(1): amended, on 28 February 2019, by section 61 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 39(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 39(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **40 Form of review**

- (1) When reviewing a social worker's competence to practise social work, the Board must—
  - (a) give the social worker written notice—
    - (i) stating why his or her competence to practise social work is being reviewed; and
    - (ii) describing any information relating to his or her competence to practise social work it has in its possession; and
    - (iii) stating that he or she has a reasonable opportunity to make written submissions and to be heard on the review, either personally or by a representative; and
  - (b) give him or her a reasonable opportunity to make written submissions and to be heard on the review, either personally or by a representative.
- (2) A statement under subsection (1)(a)(i) must contain enough detail to inform the social worker clearly of the particular grounds for the review.
- (3) A social worker 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.
- (4) The Board may permit a social worker exercising his or her right to be heard personally to be accompanied by any number of people of his or her choice who agree to attend, in addition to the person by whom he or she is entitled to be accompanied by subsection (3).

- (5) Except as provided in subsections (1) to (4) and clause 33(1) of Schedule 1, the review may be conducted as the Board thinks fit.

Section 40(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **41 Actions after review of competence**

- (1) If, after reviewing a social worker's competence to practise social work, the Board is satisfied that he or she should complete a competence assessment, it may direct the Registrar to arrange for the social worker to complete a competence assessment.
- (2) The Board may also direct the Registrar to place conditions on his or her registration, practising certificate, or both.
- (3) The Board may give a direction under subsection (2)—
- (a) when directing the Registrar to arrange for the social worker to complete a competence assessment; or
  - (b) at any later time before the social worker has completed a competence assessment.
- (4) Within 5 working days after the Board gives a direction under this section, the Registrar must ensure that the social worker concerned is given a copy.
- (5) A direction under this section takes effect on the day on which the social worker receives the copy, or on any later date stated in it.

Section 41(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### *Competence assessments*

#### **42 Competence assessments**

- (1) The Board may from time to time set programmes for the purpose of helping it decide whether people—
- (a) have the skill and knowledge required to practise social work in accordance with their registration (or proposed registration); and
  - (b) meet the professional standards reasonably to be expected of a social worker.
- (2) A competence assessment may comprise 1 or a combination of 2 or more of the following:
- (a) components entirely set by the Board; or
  - (b) components set by some other person or body, and recognised by the Board without modification; or
  - (c) components set by some other person or body, and recognised by the Board in a modified form.
- (3) At least 1 competence assessment must apply to all social work.

- (4) Any other competence assessment—
- (a) may apply to all social work; or
  - (b) may apply only to social work of a stated description; or
  - (c) may apply to all social work other than social work of a stated description.
- (5) Within 20 working days after the Board sets a competence assessment, the Registrar must publish in daily newspapers circulating in Auckland, Wellington, Christchurch, and Dunedin notice of—
- (a) its setting and application; and
  - (b) details of where copies may be obtained.

#### **43 Copies of competence assessments to be available**

The Board must take all practicable steps to ensure that copies of all competence assessments set or recognised by the Board under section 42 that are in force are available at its offices during ordinary business hours, both—

- (a) for purchase at a reasonable price; and
- (b) for inspection free of charge.

Section 43: amended, on 28 February 2019, by section 64 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **44 Registered social workers to complete assessments every 5 years**

*[Repealed]*

Section 44: repealed, on 28 February 2019, by section 65 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **45 Actions if social worker fails assessment**

- (1) If a social worker fails a competence assessment, or fails or refuses to complete a competence assessment,—
- (a) the Registrar must notify the Board; and
  - (b) the Board may direct the Registrar to—
    - (i) make the social worker's registration or practising certificate, or both, subject to conditions stated by the Board; or
    - (ii) suspend the social worker's registration (if it is not already suspended) or practising certificate.
- (2) If the Board proposes to give a direction under subsection (1)(b), it must give to the social worker concerned—
- (a) a copy of the proposed direction; and
  - (b) notice stating—
    - (i) why the Board proposes to give the direction; and



- (ii) that he or she has a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and
  - (c) a copy of any written information and a written summary of any other information on which the Board is relying in proposing to give the direction.
- (3) The statement under subsection (2)(b)(i) must contain enough detail to inform the person clearly of the particular grounds for the proposal to give the direction.
- (4) A direction under subsection (1)(b) remains in effect until the person concerned has—
  - (a) satisfied all the requirements of the competence assessment (in the case of a failure of a competence assessment); or
  - (b) undertaken a competence assessment (in the case of a failure or refusal to undertake a competence assessment).
- (5) The Board may extend the period within which a social worker is required to satisfy the requirements of a competence assessment.
- (6) Failing a competence assessment is not in itself grounds for the taking of disciplinary action.
- (7) 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.
- (8) The Board may permit a person exercising his or her right to be heard personally to be accompanied by any number of people of his or her choice who agree to attend, in addition to the person by whom he or she is entitled to be accompanied by subsection (7).
- (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.

Section 45 heading: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 45(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 45(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 45(2)(c): amended, on 28 February 2019, by section 66(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 45(9): inserted, on 28 February 2019, by section 66(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **46 Confidentiality of information**

- (1) A person who, for the purposes of a competence assessment, examines any records made or kept by the person being assessed (the **subject**) must not dis-

- close any information about an identifiable individual other than the subject (the **other person**) obtained from the records, except—
- (a) for the purpose of making a report to the Board in relation to the subject; or
  - (b) for the purposes of a criminal investigation of, or criminal proceedings taken against, the subject; or
  - (c) by disclosing the information to the other person, if—
    - (i) the Board has directed that the information be disclosed to the other person; or
    - (ii) the other person has asked for it.
- (2) Subsection (1) does not affect the Privacy Act 1993.
- (3) Subsection (4) applies to all information, statements, and admissions relating to the conduct of a person undertaking a competence assessment (whether that conduct occurred before or during the assessment) that—
- (a) are supplied, disclosed, or made by the person during the assessment; and
  - (b) are not records made or kept by the person before the assessment is undertaken, and disclosed in the course of or for the purposes of the assessment.
- (4) No information, statement, or admission to which this subsection applies—
- (a) may be used or disclosed for any purpose other than the purposes of the competence assessment during which it was disclosed or made; or
  - (b) is admissible against the person who disclosed or made it, or any other person, in any proceedings in any court or before a person acting judicially.

*Fitness to practise and serious misconduct*

Heading: replaced, on 28 February 2019, by section 68 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**47 Fitness to practise social work**

- (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 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 A is able to communicate effectively for the purposes of practising as a social worker:

- (b) A has not satisfied the Board that 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 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.
- (3) In the case only of an applicant for registration, the Board may reserve its decision on whether he or she is a fit and proper person to practise social work if it is satisfied—
- (a) that—
    - (i) professional disciplinary proceedings are being taken against him or her (whether in New Zealand or overseas); or
    - (ii) a licensing or registration organisation (whether in New Zealand or overseas) is making investigations that may lead to the taking of professional disciplinary proceedings against him or her; or
    - (iii) the Health and Disability Commissioner is making investigations that may lead to the taking of professional disciplinary proceedings against him or her; and

- (b) that the circumstances suggest a reasonable possibility that he or she is not a fit and proper person to practise social work.

Section 47(1): replaced, on 28 February 2019, by section 69 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 47(2): replaced, on 28 February 2019, by section 69 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **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
  - (c) state the grounds for the employer’s belief; and
  - (d) include a copy of any written information and a written summary of any other information on which the employer’s belief is based; and
  - (e) 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—
- (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.

Section 47A: inserted, on 28 February 2019, by section 70 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **48 Consideration of fitness to practise social work**

The Board must consider whether a person is a fit and proper person to practise social work—

- (a) promptly after receiving from the Registrar a valid application for registration made by the person; or

- (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); or
- (b) promptly after receiving a report under section 47A or being notified of a determination under section 71(1)(a) that the Board should review his or her fitness.

Section 48(a): amended, on 28 February 2019, by section 71(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 48(aa): inserted, on 28 February 2019, by section 71(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 48(b): amended, on 28 February 2019, by section 71(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **49 Action if Board considers social worker not fit and proper**

- (1) This section applies to a social worker if, after receiving a report under section 47A or being notified of a determination under section 71(1)(a) that the Board should review his or her fitness, the Board—
  - (a) has considered whether he or she is a fit and proper person to practise social work; and
  - (b) determines that he or she may not be a fit and proper person to practise social work.
- (2) If this section applies to a social worker, the Board may—
  - (a) make a complaint against the social worker under section 59; or
  - (b) direct the Registrar to suspend the social worker’s registration or practising certificate.
- (3) If the Board proposes to give a direction under subsection (2)(b), it must give to the social worker concerned—
  - (a) notice stating—
    - (i) why the Board proposes to give the direction; and
    - (ii) that he or she has a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and
  - (b) a copy of any written information and a written summary of any other information on which the Board is relying in proposing to give the direction.
- (4) The statement under subsection (3)(a)(i) must contain enough detail to inform the person clearly of the particular grounds for the proposal to give the direction.
- (5) The Board must not direct the Registrar to suspend the social worker’s registration or practising certificate unless—

- (a) it has 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
  - (b) it is satisfied that the social worker is not a fit and proper person to practise social work.
- (6) 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 possible after it is given.
- (7) The suspension does not take effect until the social worker is given a copy of the direction (*see* section 145).
- (8) 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.
- (9) The Board may permit a person exercising his or her right to be heard personally to be accompanied by any number of people of his or her choice who agree to attend, in addition to the person by whom he or she is entitled to be accompanied by subsection (8).
- (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.

Section 49 heading: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 49(1): amended, on 28 February 2019, by section 72(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 49(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 49(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 49(3): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 49(3)(b): amended, on 28 February 2019, by section 72(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 49(7): amended, on 28 February 2019, by section 72(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 49(10): inserted, on 28 February 2019, by section 72(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **50 Board to ask for Police vet, and consider convictions and other information**

- (1) In order to help determine whether a person is a fit and proper person to practise social work for the purposes of this Act, the Board—
- (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.
- (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.

Section 50(1) heading: replaced, on 28 February 2019, by section 73(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 50(1): amended, on 28 February 2019, by section 73(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 50(1)(a): replaced, on 28 February 2019, by section 73(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 50(1)(aa): inserted, on 28 February 2019, by section 73(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 50(1)(b): replaced, on 28 February 2019, by section 73(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 50(2): inserted, on 28 February 2019, by section 73(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### *Conditions affecting ability to practise social work*

#### **51 Reporting of conditions affecting ability to practise social work**

- (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.
- (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) 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.

Section 51 heading: amended, on 28 February 2019, by section 74(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 51(1): replaced, on 28 February 2019, by section 74(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 51(1A): inserted, on 28 February 2019, by section 74(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 51(1B): inserted, on 28 February 2019, by section 74(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 51(1C): inserted, on 28 February 2019, by section 74(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 51(1D): inserted, on 28 February 2019, by section 74(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 51(2): replaced, on 28 February 2019, by section 74(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 51(3): replaced, on 28 February 2019, by section 74(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## 52 Power to seek medical advice

- (1) A person who is considering reporting to the Registrar under section 51 may seek any medical advice, whether psychiatric or otherwise, he or she thinks appropriate to help him or her form an opinion.
- (2) A report under section 51 must include a copy or (if a copy is not available) a description of any medical advice obtained.

Section 52(1): amended, on 28 February 2019, by section 75(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 52(2): replaced, on 28 February 2019, by section 75(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## 53 Report to be put before chairperson

When the Registrar receives a report under section 51,—

- (a) he or she must promptly put it before the chairperson of the Board; and
- (b) the chairperson must put it before the Board at its next meeting.

Section 53 heading: amended, on 28 February 2019, by section 76(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 53: amended, on 28 February 2019, by section 76(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## 54 Interim suspensions

*[Repealed]*

Section 54: repealed, on 28 February 2019, by section 77 of the Social Workers Registration Legislation Act 2019 (2019 No 3).



## **55 Power to order medical examination**

- (1) If (whether or not as a result of a report under section 51) the Board considers that a social worker may be unable to satisfactorily perform the functions required to practise as a social worker, it may give him or her written notice requiring him or her to submit himself or herself for examination by a medical practitioner chosen by the Board.
- (2) The Board must first consult the social worker as to who should undertake the examination, unless—
  - (a) it is impracticable to do so; or
  - (b) the social worker refuses to be consulted.
- (3) The notice must—
  - (a) state—
    - (i) the name and address of the medical practitioner; and
    - (ii) the date by which the examination is to be conducted (being a date at least 5 working days after the date on which the notice is given to the social worker); and
  - (b) be signed by the chairperson of the Board or the Registrar.
- (4) The Board must pay for the examination.

Section 55(1): amended, on 28 February 2019, by section 78(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 55(1): amended, on 28 February 2019, by section 78(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 55(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **56 Conduct and consequences of examination**

- (1) The Board must give a medical practitioner who undertakes an examination under section 55 notice of—
  - (a) its reasons for requiring the examination; and
  - (b) the fields of social work in which the social worker usually practises.
- (2) The social worker—
  - (a) is entitled to have another medical practitioner, chosen by him or her, attend the examination as an observer; and
  - (b) whether or not a medical practitioner chosen by him or her attends, is entitled to be accompanied by 1 person of his or her choice who agrees to attend.
- (3) The medical practitioner who examines the social worker must, as soon as reasonably practicable after the examination, give the Registrar a written report on the social worker's mental and physical condition (so far as it affects his or her ability to practise satisfactorily as a social worker).

- (4) Promptly after receiving the report, the Registrar must—
- (a) put it before the Board; and
  - (b) send a copy to the social worker.

Section 56(3): amended, on 28 February 2019, by section 79 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **57 Conditions may be imposed because of condition**

- (1) Subsection (2) applies if a social worker has been given a notice under section 55, and—
- (a) either—
    - (i) the social worker submitted himself or herself for examination as required by the notice, and the Registrar has received a written report on the social worker's mental and physical condition from the medical practitioner named in it; or
    - (ii) the social worker did not submit himself or herself for examination as required by the notice; and
  - (b) the Registrar has given the social worker notice that he or she has a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and
  - (c) the Board has given the social worker that opportunity; and
  - (d) the Board considers that the matter should be dealt with urgently.
- (2) If this subsection applies, the Board—
- (a) must consider all the relevant circumstances of the case (including any report received from the medical practitioner named in the notice, whether or not the social worker attended for examination within the time required by the notice); and
  - (b) may give the Registrar a direction to—
    - (i) make the social worker's registration or practising certificate, or both, subject to conditions stated by the Board; or
    - (ii) suspend the social worker's registration or practising certificate for a period that the Board considers is reasonably necessary to protect the public.
- (3) The Board must not give a direction unless—
- (a) it is satisfied that—
    - (i) the social worker is unable to satisfactorily perform the functions required to practise as a social worker; and
    - (ii) it is necessary to do so, having regard to the need to protect the health and safety of members of the public; or

- (b) it has been unable to decide whether the social worker is able to practise satisfactorily as a social worker, because he or she did not submit himself or herself for examination as required by the notice concerned.
- (4) The direction must—
  - (a) be in writing; and
  - (b) state the reasons for which it has been given; and
  - (c) be signed by the chairperson.
- (5) The Registrar must take all reasonably practicable steps to ensure that a copy of the direction is given to the social worker within 5 working days after the day on which it is given.
- (6) The direction does not take effect until—
  - (a) the day on which the social worker is given a copy (*see* section 145); or
  - (b) a later day stated in it.
- (7) 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.
- (8) The Board may permit a person exercising his or her right to be heard personally to be accompanied by any number of people of his or her choice who agree to attend, in addition to the person by whom he or she is entitled to be accompanied by subsection (7).

Section 57 heading: amended, on 28 February 2019, by section 80(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 57(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 57(2)(b)(ii): amended, on 28 February 2019, by section 80(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 57(3)(a)(i): amended, on 28 February 2019, by section 80(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 57(3)(b): amended, on 28 February 2019, by section 80(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 57(4)(b): amended, on 28 February 2019, by section 80(5) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 57(6)(a): amended, on 28 February 2019, by section 80(6) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

*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*

Heading: inserted, on 28 February 2019, by section 82 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**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) 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.

Section 57A: inserted, on 28 February 2019, by section 82 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**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).

Section 57B: inserted, on 28 February 2019, by section 82 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**58 Revocation of suspension or conditions**

- (1) The Board may give the Registrar a direction to revoke a suspension imposed under section 57 or 57A if it is satisfied that the social worker concerned—
  - (a) was in fact able to practise satisfactorily as a social worker; or
  - (b) is again able to practise satisfactorily as a social worker.
- (2) The Board may give the Registrar a direction to revoke any conditions imposed under section 57 or 57A if it is satisfied that they are no longer necessary.
- (3) The Registrar must take all reasonably practicable steps to ensure that a copy of the direction is given to the social worker within 5 working days after the day on which it is given.
- (4) The direction takes effect immediately.

Section 58 heading: replaced, on 28 February 2019, by section 85(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 58(1): amended, on 28 February 2019, by section 85(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 58(1)(a): amended, on 28 February 2019, by section 85(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 58(1)(b): amended, on 28 February 2019, by section 85(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 58(2): amended, on 28 February 2019, by section 85(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

*Setting conditions on revocation of suspension of registration or practising certificate*

Heading: inserted, on 28 February 2019, by section 87 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**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).

Section 58A: inserted, on 28 February 2019, by section 87 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**Part 4  
Discipline**

*Complaints*

**59 Complaints against social workers**

- (1) Any person may make a complaint against a social worker—
  - (a) to the Health and Disability Commissioner or the Registrar, if the complaint is about the provision of health services or disability services; or
  - (b) to the Registrar.

- (2) The complaint may be oral or written.
- (3) A complaint may be made by—
  - (a) the Minister; or
  - (b) the Commissioner for Children; or
  - (c) any other person in the service of the Crown acting in an official capacity; or
  - (d) any member of the Board or the Tribunal.

- (4) Subsection (3) does not limit the generality of subsection (1).

Section 59 heading: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 59(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **60 Registrar to notify Board of complaints**

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

Section 60: replaced, on 28 February 2019, by section 88 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **61 Registrar to notify Health and Disability Commissioner of certain complaints**

The Registrar must promptly notify the Health and Disability Commissioner in writing of a complaint about the provision of health services or disability services made to the Registrar under section 59(1).

#### **62 Health and Disability Commissioner may notify Board of complaints**

The Health and Disability Commissioner may notify the Board in writing of a complaint about the provision of health services or disability services received under Part 4 of that Act that is made against or directly involves a social worker.

Section 62 heading: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 62: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 62: amended, on 1 October 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

#### **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.

Section 63: replaced, on 28 February 2019, by section 89 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **64 Suspension of action while Health and Disability Commissioner investigates**

- (1) No action may be taken under this Part about a complaint that has been notified or referred to the Health and Disability Commissioner under this Act until—
- (a) the Health and Disability Commissioner notifies the Board in writing—
- (i) that the complaint is not to be investigated, or investigated further, under the Health and Disability Commissioner Act 1994; or
  - (ii) that the complaint has been resolved; or
  - (iii) that the complaint has been investigated under the Health and Disability Commissioner Act 1994 and the complaint is not to be referred to the Director of Proceedings under section 45(2)(f) of that Act; or
- (b) the Director of Proceedings notifies the Board in writing that the Director of Proceedings has decided under section 49 of the Health and Disability Commissioner Act 1994 not to lay a charge under this Act in relation to the complaint.

- (2) Subsection (1) overrides section 65.

Section 64(1)(a): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 64(1)(a)(iii): amended, on 1 October 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 64(1)(b): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **65 Referral of complaints 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).
- (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) If the Board receives more than 1 complaint 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 to the same professional conduct committee.

Section 65: replaced, on 28 February 2019, by section 90 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**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.

Section 65A: inserted, on 28 February 2019, by section 91 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### *Professional conduct committees*

Heading: replaced, on 28 February 2019, by section 93 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **66 Professional conduct committees**

- (1) The Board—
- (a) may from time to time appoint, in relation to a particular case or cases of a particular class, 2 social workers and 1 person who is not a social worker to be a professional conduct committee; and
  - (b) may at any time dissolve or reconstitute a professional conduct committee.
- (2) *[Repealed]*
- (3) In appointing or reconstituting a professional conduct committee, the Board must have regard to—
- (a) the desirability of the committee including members with knowledge and expertise relevant to the complaint or conviction concerned; and
  - (b) whether it is desirable for Māori, or a particular ethnic or cultural group in New Zealand, to be represented on the committee.
- (4) No member of the Board or the Tribunal may be a member of a professional conduct committee.
- (5) The Board must appoint 1 of the members of each professional conduct committee to preside at its meetings.

Section 66 heading: replaced, on 28 February 2019, by section 94(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 66(1): amended, on 28 February 2019, by section 94(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 66(1)(a): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 66(1)(b): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 66(2): repealed, on 28 February 2019, by section 94(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 66(3): amended, on 28 February 2019, by section 94(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 66(3): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 66(3)(a): amended, on 28 February 2019, by section 94(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 66(4): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 66(5): amended, on 28 February 2019, by section 94(5) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 66(5): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **67 Committees may regulate own procedure**

- (1) A professional conduct committee may regulate its procedure as it thinks fit.
- (2) Subsection (1) is subject to—
  - (a) the rules of natural justice; and
  - (b) this Act; and
  - (c) any regulations made under this Act.

Section 67(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **68 Committees may appoint legal advisers**

A professional conduct committee may appoint a legal adviser, who—

- (a) may be present at meetings of the committee; and
- (b) may at any time advise the committee on matters of law, procedure, or evidence; but
- (c) must not be present during the deliberations of the committee.

Section 68: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **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.

Section 68A: inserted, on 28 February 2019, by section 95 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **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).

Section 68B: inserted, on 28 February 2019, by section 95 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **69 Information to be given to social worker and complainant**

As soon as is practicable after a complaint about, or a notice of conviction of, a social worker is referred to a professional conduct committee, the Board must ensure—

- (a) that the social worker is given written notice of—
  - (i) the particulars of the complaint or notice of conviction; and
  - (ii) the intended membership of the professional conduct committee that is to consider it; and
- (b) in the case of a complaint, that the complainant is given written notice of the intended membership of the professional conduct committee that is to consider it.

Section 69: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 69(a)(ii): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 69(b): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**70 Social workers and complainants may request changes in membership of professional conduct committee**

- (1) Within 10 working days after being informed of the intended membership of the professional conduct committee that is to consider a complaint about, or conviction of, a social worker, the social worker or, in the case of a complaint, the complainant may give the Board notice—
  - (a) requesting that any or all of the intended members not be appointed as members of that committee; and
  - (b) stating the reasons for the request.
- (2) The Board—
  - (a) must consider the request; and
  - (b) may reconstitute the committee.

Section 70 heading: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 70(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 70(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**71 Determination of complaint or notice of conviction by professional conduct committee**

- (1) As soon as is reasonably practicable after a complaint or notice of conviction is referred to a professional conduct committee, it must determine whether—
  - (a) the Board should review the competence or fitness of the social worker concerned to practise social work (or both); or
  - (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
  - (c) the committee should submit the complaint or conviction to the Tribunal; or

- (d) no further steps should be taken under this Act in relation to the complaint or conviction.
- (2) In making its determination, the committee—
  - (a) may undertake or arrange for any investigations it thinks necessary; and
  - (b) in the case of a complaint, may have regard to—
    - (i) any investigations or considerations of the subject matter of the complaint already carried out (whether by the Commissioner for Children, an employer or former employer of the social worker, or any other person, body, court, or tribunal); and
    - (ii) the consequences (if any) of any investigation or consideration carried out.
- (3) Before making its determination,—
  - (a) the committee—
    - (i) must give the social worker a reasonable opportunity to make a written explanation or statement in relation to the complaint or conviction; and
    - (ii) may, on the social worker's application or of its own motion, give him or her a reasonable opportunity to appear before it to make an explanation or statement in relation to the complaint or conviction; and
  - (b) in the case of a complaint, the committee—
    - (i) must give the complainant a reasonable opportunity to make a written statement in relation to it; and
    - (ii) may, on the complainant's application or of its own motion, give him or her a reasonable opportunity to appear before the committee to make a statement in relation to it.
- (4) The committee may require a complaint referred to it to be supported by a statutory declaration.
- (5) A person exercising his or her right to appear before the committee to make a statement in relation to a complaint is entitled to be accompanied by 1 person of his or her choice who agrees to attend.
- (6) The committee may permit a person exercising his or her right to appear before the committee to make a statement in relation to a complaint to be accompanied by any number of people of his or her choice who agree to attend, in addition to the person by whom he or she is entitled to be accompanied by subsection (5).
- (7) If the committee makes a determination that no further steps should be taken under this Act in relation to a complaint or conviction,—
  - (a) no further steps may be taken under this Act in relation to the complaint or conviction; and

- (b) the committee must give the social worker (and, in the case of a complaint, the complainant) written notice of—
  - (i) the determination; and
  - (ii) the committee's reasons.

Section 71 heading: amended, on 28 February 2019, by section 96(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 71 heading: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 71(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 71(1)(a): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 71(1)(b): replaced, on 28 February 2019, by section 96(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **72 Procedure after committee makes determination (other than to take no further action)**

- (1) This subsection applies to a determination by a professional conduct committee that—
  - (a) the Board should review the competence or fitness of a social worker to practise as a social worker; or
  - (b) the committee should submit a complaint to conciliation.
- (2) If it makes a determination to which subsection (1) applies, 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; and
  - (c) in the case of a complaint, the complainant.
- (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.
- (3) If it makes a determination to submit a complaint or conviction to the Tribunal, a professional conduct committee must—
  - (a) frame an appropriate charge; and
  - (b) lay it before the Tribunal; and
  - (c) give written notice of it to the social worker and, in the case of a complaint, to the complainant.
- (4) On receiving notice under subsection (2)(a) or (2A), the Registrar must promptly put the notice before the Board.

Section 72 heading: replaced, on 28 February 2019, by section 98(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 72(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 72(1)(a): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 72(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 72(2A): inserted, on 28 February 2019, by section 98(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 72(3): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 72(4): amended, on 28 February 2019, by section 98(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **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.

Section 72A: inserted, on 28 February 2019, by section 99 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **73 Conciliation and mediation**

- (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.
- (2) If the committee thinks that the complaint has been successfully resolved by agreement, it must promptly give the chairperson of the Tribunal written notice to that effect.
- (3) If the committee thinks that the complaint has not been successfully resolved by agreement, it must promptly determine whether—
- (a) the committee should submit the complaint to the Tribunal; or
  - (b) no further steps should be taken under this Act in relation to the complaint.
- (4) If it makes a determination to submit the complaint to the Tribunal, the committee must—
- (a) frame an appropriate charge; and
  - (b) lay it before the Tribunal, together with a notice stating—
    - (i) the matters on which the social worker and complainant reached agreement during conciliation; and
    - (ii) the matters on which the social worker and complainant did not reach agreement during conciliation; and
  - (c) give a copy of the charge and notice to the social worker and the complainant.
- (5) If the committee makes a determination that no further steps should be taken under this Act in relation to the complaint,—
- (a) no further steps may be taken under this Act in relation to the complaint; and
  - (b) the committee must give the social worker and complainant written notice of—
    - (i) the determination; and
    - (ii) the committee’s reasons.

Section 73 heading: replaced, on 28 February 2019, by section 100(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 73(1): replaced, on 28 February 2019, by section 100(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 73(1A): inserted, on 28 February 2019, by section 100(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 73(1B): inserted, on 28 February 2019, by section 100(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**74 Committee may recommend suspension of registration or practising certificate or imposition of conditions**

A professional conduct committee that lays a charge before the Tribunal may recommend to the Tribunal that, pending the determination of the charge,—

- (a) the registration or practising certificate of the social worker concerned be suspended under section 77; or
- (b) conditions be imposed on the practice of social work by that social worker under section 77.

Section 74 heading: amended, on 28 February 2019, by section 101(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 74: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 74(a): amended, on 28 February 2019, by section 101(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 74(b): amended, on 28 February 2019, by section 101(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

*Procedure and decisions of Tribunal***75 Laying of charge before Tribunal**

- (1) A charge against a social worker may be laid before the Tribunal—
  - (a) by the Director of Proceedings under the Health and Disability Commissioner Act 1994 if,—
    - (i) after conducting an investigation under Part 4 of that Act, the Health and Disability Commissioner notifies the Tribunal of a complaint involving the provision of health and disability services by the social worker; and
    - (ii) under section 49 of that Act, the Director of Proceedings decides that proceedings should be taken against the social worker under this Part; or
  - (b) by a professional conduct committee under this Part.
- (2) The charge must contain—
  - (a) a statement to the effect that the Director of Proceedings or professional conduct committee has reason to believe that grounds exist entitling the Tribunal to exercise its powers under this Part; and
  - (b) enough detail to inform the social worker clearly of the substance of the grounds.
- (3) As soon as is reasonably practicable after a charge is laid before the Tribunal, its chairperson must convene a hearing to consider the charge.
- (4) If the charge was laid by the Director of Proceedings, it must be prosecuted at the hearing by the Director of Proceedings.

- (5) If the charge was laid by a professional conduct committee, it must be prosecuted at the hearing by that committee.
- (6) The Director of Proceedings or a professional conduct committee may be represented, by counsel or otherwise, in prosecuting the charge.
- (7) Except as otherwise provided in this Part, the Tribunal—
  - (a) may determine its own procedure; but
  - (b) must observe the rules of natural justice.

Section 75(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 75(1)(b): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 75(2)(a): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 75(5): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 75(6): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **76 Notice of disciplinary proceedings to be given to social worker**

- (1) Before convening a hearing of the Tribunal to consider a charge against a social worker, the chairperson of the Tribunal must give the social worker written notice—
  - (a) stating that the Director of Proceedings or a professional conduct committee (as the case may be) has reason to believe that grounds exist entitling the Tribunal to exercise its powers under this Part; and
  - (b) specifying the particulars of the charge; and
  - (c) specifying a date (being not less than 20 working days, and not more than 60 working days, after the date on which the notice is received by the social worker) on which the Tribunal intends to hear the charge.
- (2) The chairperson must also give a copy of the notice to any complainant.
- (3) The notice must require the social worker to inform the Tribunal in writing, not later than a date specified in it (being not less than 10 working days after the date on which the social worker receives the notice), whether he or she wishes to be heard by the Tribunal, either personally or by a representative.
- (4) If the social worker fails to notify the Tribunal as required by subsection (3), the social worker is entitled to appear and to be heard at the hearing, but only on conditions (as to payment of costs and expenses or otherwise) that the Tribunal thinks fit and orders.

Section 76(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 76(1)(a): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**77 Interim suspension of registration or practising certificate or imposition of conditions on practice**

- (1) At any time after a notice has been given to a social worker under section 76(1), the Tribunal may, if it is satisfied that it is necessary or desirable to do so having regard to the need to protect the health or safety of members of the public, direct that, until the charge to which that notice related has been disposed of,—
  - (a) the registration or practising certificate of that social worker be suspended; or
  - (b) that social worker may practise as a social worker only in accordance with conditions stated in the order.
- (2) The Tribunal may make an order under this section on the recommendation of the Director of Proceedings or a professional conduct committee, or of its own motion.
- (3) The Tribunal does not have to give the social worker notice that it intends to give the direction.
- (4) The direction must—
  - (a) be in writing; and
  - (b) state the reasons for it; and
  - (c) state clearly the social worker’s right to apply to the Tribunal to have it revoked; and
  - (d) be signed by the chairperson or a deputy chairperson of the Tribunal.
- (5) The Registrar must ensure that a copy of the direction is given to the social worker, and any employer of the social worker, as soon as is reasonably practicable.
- (6) The direction takes effect from the day on which the copy is given to the social worker (*see* section 145).

Section 77 heading: amended, on 28 February 2019, by section 103(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 77 heading: amended, on 28 February 2019, by section 103(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 77(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 77(1)(a): amended, on 28 February 2019, by section 103(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 77(1)(b): amended, on 28 February 2019, by section 103(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 77(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 77(6): amended, on 28 February 2019, by section 103(5) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**78 Social worker may apply for revocation of direction**

- (1) A social worker may at any time apply to the Tribunal for the revocation of a direction under section 77(1).
- (2) The application must be in writing and delivered to the Registrar.
- (3) The Tribunal—
  - (a) must hear the application within 10 working days after it is received by the Registrar; and
  - (b) the Tribunal may, as it thinks fit,—
    - (i) grant or refuse the application; or
    - (ii) in the case of conditions imposed under section 77(1)(b), amend or replace the conditions.
- (4) The Registrar must promptly give the social worker notice of the Tribunal's decision.
- (5) The Tribunal may revoke a direction under section 77(1) of its own motion.
- (6) The Tribunal's decision takes effect immediately.

Section 78(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 78(3)(b)(ii): amended, on 28 February 2019, by section 104 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**79 Hearings of Tribunal to be public**

- (1) Except as provided in this section and in section 80, every hearing of the Tribunal must be held in public.
- (2) If, after having regard to the interests of any person (including, without limitation, the privacy of any complainant) and to the public interest, the Tribunal is satisfied that it is desirable to do so, it may (on application by the person or body prosecuting the charge, the social worker concerned, a complainant, or a witness, or of its own motion) make any 1 or more of the following orders:
  - (a) an order that the whole or any part of a hearing must be held in private:
  - (b) an order prohibiting the publication of any report or account of any part of a hearing, whether held in public or in private:
  - (c) an order prohibiting the publication of the whole or any part of any books, papers, or documents produced at a hearing:
  - (d) an order prohibiting the publication of the name, or any particulars of the affairs, of any person.
- (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).

- (3) An application to the Tribunal for an order under subsection (2) must be heard in private; but the other parties to the proceedings and any complainant are entitled to be present and to make submissions on it.
- (4) If the Tribunal of its own motion proposes to make an order under subsection (2), it must consider the matter in private; but the parties to the proceedings and any complainant are entitled to be present and to make submissions.
- (5) Even if a hearing of the Tribunal is otherwise held in private, the Tribunal may allow any particular person to attend it if satisfied that he or she has a particular interest in the matter to be heard.
- (6) An order made under this section continues in force—
  - (a) until a time specified in it; or
  - (b) if no time is specified, until revoked under section 81.
- (7) This section does not prevent the Tribunal from deliberating in private as to its decision, or as to any question arising in the course of a hearing.
- (8) Orders cannot be made under paragraph (c) or paragraph (d) of subsection (2) in respect of—
  - (a) any communication made by or on behalf of the Health and Disability Commissioner under the Health and Disability Commissioner Act 1994 that does not contain information identifying, or capable of identifying, an individual; or
  - (b) the publication of the effect of any order.

Section 79(2A): inserted, on 28 February 2019, by section 105 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **80 Special protection for certain witnesses**

- (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) Before a witness at a hearing by the Tribunal begins to give oral evidence to which this section applies, the presiding officer must—
  - (a) tell the witness that he or she has a right to give the evidence in private; and
  - (b) ask if the witness wishes to give the evidence in private.
- (3) If the witness is aged under 18 years, or is a witness described in subsection (1)(b) and wishes to give the evidence in private, the presiding officer must—

- (a) ensure that only people referred to in subsection (4) are present in the room in which the hearing is being held; and
  - (b) tell the witness that he or she has a right to request the presence of any person of his or her choice who agrees to be present; and
  - (c) tell the social worker that he or she has a right to request the presence of any person of his or her choice who agrees to be present.
- (4) If the witness is aged under 18 years, or is a witness described in subsection (1)(b) and wishes to give the evidence in private, only the following people may be present in the room while the witness is giving the evidence:
- (a) a member or officer of the Tribunal;
  - (b) the social worker concerned;
  - (c) the person prosecuting the charge;
  - (d) any barrister or solicitor engaged in the proceedings;
  - (e) if the social worker's representative is not a barrister or solicitor, the representative;
  - (f) any person responsible to the Tribunal for recording the proceedings;
  - (g) any accredited news media reporter;
  - (h) 1 person of the witness' choice who agrees to be present;
  - (i) 1 person of the social worker's choice who agrees to be present;
  - (j) any other person expressly permitted by the Tribunal to be present.
- (5) The witness may object to the presence of a person of the social worker's choice (or a particular person of the social worker's choice); and in that case a person of the social worker's choice (or the particular person) may not be present in the room while the witness is giving the evidence.
- (6) No person may publish—
- (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 they were under 18 years when the matters that are the subject of their evidence occurred or when 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.

(7) *[Repealed]*

Section 80(1): replaced, on 28 February 2019, by section 106(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 80(3): amended, on 28 February 2019, by section 106(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 80(4): amended, on 28 February 2019, by section 106(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 80(6): replaced, on 28 February 2019, by section 106(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 80(6A): inserted, on 28 February 2019, by section 106(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 80(7): repealed, on 28 February 2019, by section 106(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **81 Application for revocation of order under section 79**

- (1) Any person may apply to the Tribunal that made an order under section 79 for the revocation of the order.
- (2) The application may be made by a person who was a party to the proceedings in which the order was made, or any other person.
- (3) The Tribunal may grant or refuse the application as it thinks fit.

## **82 Grounds on which Tribunal may make order**

- (1) The Tribunal may make an order under section 83 in respect of a social worker if, after conducting a hearing on a charge laid against the social worker, it is satisfied that the social worker—
  - (a) has been guilty of professional misconduct; or
  - (b) has been guilty of conduct that—
    - (i) is unbecoming of a social worker; and
    - (ii) reflects adversely on the social worker's fitness to practise as a social worker; or
  - (c) has been convicted by a court (in New Zealand or elsewhere) of an offence that—
    - (i) is punishable by imprisonment for a term of 3 months or longer; and
    - (ii) was committed in circumstances that reflect adversely on the social worker's fitness to practise as a social worker; or
  - (d) has failed to comply with conditions on his or her registration, or conditions stated under section 77(1)(b).
- (2) A social worker is guilty of professional misconduct if he or she—
  - (a) breaches the code of conduct; or



- (b) while practising as a social worker, claims or holds himself or herself out to be registered while not holding a current practising certificate; or
  - (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.
- (3) The Tribunal must not make an order under section 83 in respect of an offence for which a social worker was convicted if, when the Board decided he or she should be registered, it was—
- (a) aware of the conviction; and
  - (b) adequately informed of the circumstances of the offence.
- (4) A social worker is not guilty of a disciplinary offence just because he or she has practised honestly and in good faith a theory of social work that is not in conflict with the code of conduct.

Section 82(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 82(1)(d): amended, on 28 February 2019, by section 107(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 82(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 82(2)(b): amended, on 28 February 2019, by section 107(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 82(2)(b): amended, on 28 February 2019, by section 107(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 82(2)(c): inserted, on 28 February 2019, by section 107(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 82(2)(d): inserted, on 28 February 2019, by section 107(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 82(3): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 82(4): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **83 Penalties**

- (1) If satisfied of any matter referred to in section 82(1), the Tribunal may make any or all of the following orders:
- (a) an order that—
    - (i) the registration of the social worker concerned be cancelled, or their registration or practising certificate be suspended for a period of not more than 3 years; or
    - (ii) for a period of not more than 3 years, he or she may practise as a social worker only in accordance with stated conditions (as to employment, supervision, or otherwise):
  - (b) an order that he or she is censured:

- (c) an order that he or she pay a fine of not more than \$10,000 to the Board:
- (ca) an order that they apologise to the complainant:
- (d) an order that he or she undergo stated additional training, professional development, or both:
- (e) an order that he or she pay part or all of the costs and expenses of and incidental to any or all of the following:
  - (i) any investigation made by the Health and Disability Commissioner under the Health and Disability Commissioner Act 1994 in relation to the subject matter of any charge concerned:
  - (ii) any inquiry made by a professional conduct committee in relation to the subject matter of any charge concerned:
  - (iii) the prosecution of any charge concerned by the Director of Proceedings or professional conduct committee:
  - (iv) the hearing concerned.
- (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.
- (3) In dealing with a matter that constitutes an offence for which the social worker has been convicted by a court, the Tribunal must not impose a fine.
- (4) The Tribunal must have regard to the amount of any award of damages against the social worker under section 57 of the Health and Disability Commissioner Act 1994 in respect of the conduct concerned, when determining—
  - (a) whether to make an order that he or she pay a fine; or
  - (b) the amount of any fine.

Section 83(1)(a)(i): amended, on 28 February 2019, by section 109(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 83(1)(a)(i): amended, on 28 February 2019, by section 109(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 83(1)(a)(i): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 83(1)(a)(ii): amended, on 28 February 2019, by section 109(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 83(1)(ca): inserted, on 28 February 2019, by section 109(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 83(1)(e)(ii): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 83(1)(e)(iii): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 83(2): replaced, on 28 February 2019, by section 109(5) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **84 Orders as to restoration of registration**

- (1) When making an order that the registration of a social worker be cancelled, the Tribunal may do either or both of the following things:
  - (a) fix a date before which he or she may not apply for registration again;
  - (b) impose 1 or more conditions that he or she must satisfy before he or she may apply for registration again.
- (2) 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 cancellation of the person's registration.
- (3) The Tribunal must not impose a condition under paragraph (b) or paragraph (c) of subsection (2) unless the person consents to the examination, treatment, counselling, or therapy concerned.
- (4) If the Tribunal fixes a date before which the person may not apply for registration again, no application for registration from him or her may be received or considered before that date.
- (5) Subsection (2) does not limit subsection (1)(b).

Section 84(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **85 Orders of Tribunal**

- (1) An order of the Tribunal must—
  - (a) be in writing; and
  - (b) contain a statement of the reasons for it; and
  - (c) be signed by the presiding officer at the hearing.
- (2) The Registrar must ensure that a copy of the order is given to—
  - (a) the person or body who laid the charge; and
  - (b) the social worker concerned; and
  - (c) any complainant.
- (3) The order takes effect from the day on which a copy is given to the social worker (*see* section 145), or any later date specified in it.

Section 85(3): amended, on 28 February 2019, by section 111 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **86 Funding**

- (1) The Board—
  - (a) must pay—
    - (i) all the costs of the Tribunal; and
    - (ii) all the costs of every professional conduct committee; and
    - (iii) all costs of and incidental to any hearing before the Tribunal; but
  - (b) may use any money paid to it under an order under section 83(1) to reimburse itself for its payments.
- (2) To fund the costs referred to in subsection (1)(a) (less any payments made to it), the Board may impose a levy, to be called the disciplinary levy, under section 109.

Section 86(1)(a)(ii): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **87 Recovery of fines and costs**

- (1) All costs and expenses of the Health and Disability Commissioner or Director of Proceedings ordered to be paid under subparagraph (i) or subparagraph (iii) of section 83(1)(e) are recoverable by the Health and Disability Commissioner as a debt due to the Health and Disability Commissioner.
- (2) All other fines, costs, and expenses ordered to be paid under section 83(1) are recoverable by the Board as a debt due to the Board.

# **Part 5 Appeals**

## **88 Rights of appeal**

- (1) A person may appeal to the District Court against any decision or direction of the Board under this Act that adversely affects him or her (not being a decision or direction affecting a person only because he or she is a person of a particular kind or description).
- (2) A person may appeal to the District Court against the whole or any part of a decision or order made in relation to him or her under Part 4 (other than a determination of a professional conduct committee).
- (3) For the purposes of subsection (2),—
  - (a) a decision includes a decision to refuse to make an order; and
  - (b) an order includes a direction under section 77; and
  - (c) a decision or order made in relation to a charge laid by the Director of Proceedings or a professional conduct committee is made in relation to

the Director of Proceedings or a professional conduct committee (as well as any other person).

- (4) The appeal—
- (a) must be brought by way of notice of appeal in accordance with rules of court; and
  - (b) must be lodged within 20 working days after notice of the decision or order is communicated to the appellant, or within any further time a District Court Judge allows on application made before or after the period expires.

Section 88(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 88(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 88(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 88(3)(c): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **89 Notice of right of appeal**

When notifying a person under this Act of any decision or order against which section 88 gives him or her a right of appeal, the Registrar must also notify him or her in writing of the right of appeal, and the time within which an appeal must be lodged.

## **90 Orders to have effect pending determination of appeal**

A decision or order against which an appeal is lodged under this Part continues in force until the appeal is determined, unless the District Court appealed to or the High Court orders otherwise.

## **91 Procedure on appeal**

- (1) An appeal under this Part must be heard as soon as is reasonably practicable after it is lodged.
- (2) On hearing the appeal, the District Court—
  - (a) may confirm, reverse, or modify the decision or order appealed against; and
  - (b) may make any other decision or order that the person or body that made the decision or order appealed against could have made.
- (3) The District Court must not review—
  - (a) any part of a decision or order not appealed against; or
  - (b) any decision or order not appealed against at all.

Section 91(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

**92 Court's decision final**

- (1) The District Court's decision on an appeal under this Part is final.
- (2) Subsection (1) is subject to section 96.

Section 92(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

**93 Court may refer matter back for reconsideration**

- (1) Instead of determining an appeal under this Part, the District Court may direct the person or body whose decision or order is appealed against to reconsider, either generally or in respect of any specified aspect, the whole or any part of it.
- (2) The court—
  - (a) must state its reasons for its direction; and
  - (b) may give any other directions it thinks just as to the matter referred back for reconsideration.
- (3) The person or body—
  - (a) must reconsider the matter; and
  - (b) in doing so, must—
    - (i) take the court's reasons into account; and
    - (ii) give effect to the court's directions.

Section 93(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

**94 Orders as to costs**

On any appeal under this Part, the District Court may order the person or body whose decision or order is appealed against, or the appellant, to pay the costs incurred in respect of the appeal by the other party to the appeal.

Section 94: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

**95 Orders as to publication of names**

- (1) On any appeal under this Part, the District Court may, if in its opinion it is proper to do so, prohibit the publication of the name or particulars of the affairs of a social worker or any other person.
- (2) In deciding whether to make an order under subsection (1), the court must have regard to—
  - (a) the interests of any person (including, without limitation, the privacy of any complainant); and
  - (b) the public interest.

Section 95(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 95(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

**96 Appeal on question of law**

- (1) If dissatisfied with a decision of the District Court as being erroneous in law, a party to an appeal under this Part may appeal to the High Court on a question of law only.
- (2) The appeal must be heard and determined in accordance with rules of court.
- (3) Part 6 of the Criminal Procedure Act 2011 applies to the appeal—
  - (a) so far as it is applicable and with all necessary modifications; but
  - (b) only so far as it relates to appeals on questions of law.
- (4) Subsection (3) overrides subsection (2).

Section 96(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**Part 6**

**Social Workers Registration Board and Social Workers Complaints  
and Disciplinary Tribunal**

*Social Workers Registration Board*

**97 Social Workers Registration Board established**

- (1) This section establishes the Social Workers Registration Board.
- (2) The Board is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Board except to the extent that this Act expressly provides otherwise.

Section 97(2): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 97(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**98 Powers of Board**

*[Repealed]*

Section 98: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**99 Functions of Board**

- (1) The functions of the Board are—
  - (a) to receive and consider applications for registration:

- (b) to authorise the registration of social workers:
- (c) to maintain the Register:
- (d) if it thinks fit, to adopt conditions subject to which all practising certificates, or the practising certificates of all social workers of a particular description, must be issued:
- (e) to consider applications for practising certificates referred to it by the Registrar:
- (f) to recognise or prescribe New Zealand educational qualifications for the purposes of this Act:
- (g) to review the competence of social workers:
- (ga) to review social workers' fitness to practise:
- (h) to establish and maintain a code of conduct for social workers:
- (i) in consultation with providers of social work education and training in New Zealand and bodies that set standards for social work education and training in New Zealand, to promote and set standards for such education and training for the purposes of this Act:
- (j) to promote the benefits of registration—
  - (i) to departments of State, other instruments of the Crown, other bodies and organisations that employ social workers, and the public; and
  - (ii) among people practising as social workers:
- (k) to promote the establishment by departments of State, other instruments of the Crown, and other bodies and organisations that employ social workers, of accessible and efficient procedures for making, considering, and determining complaints relating to social workers they employ:
- (l) to advise, and make recommendations to, the Minister in respect of matters relating to the regulation of the social work profession:
- (m) *[Repealed]*
- (n) to promote and encourage high standards of practice and professional conduct among social workers and the employers of social workers:
- (o) to consider the cases of social workers who may be unable to satisfactorily perform the functions required to practise as a social worker:
- (oa) to set criteria for reporting serious misconduct or issues of competence or fitness to practise:
- (p) subject to this Act, to disclose to the employers or prospective employers of social workers information it has obtained under this Act relating to people who are or have been—
  - (i) applicants for registration; or
  - (ii) social workers:



- (q) to provide administrative and related services for the Tribunal:
  - (r) any other functions conferred or imposed on it by or under this Act or any other enactment.
- (2) Subsection (1)(h) does not limit or affect the functions or powers of any department of State.
- (3) Subsection (1)(p) does not apply to information required by this Act to be kept confidential.

Section 99(1)(d): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 99(1)(f): amended, on 28 February 2019, by section 112(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 99(1)(ga): inserted, on 28 February 2019, by section 112(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 99(1)(h): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 99(1)(m): repealed, on 28 February 2019, by section 112(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 99(1)(n): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 99(1)(o): amended, on 28 February 2019, by section 112(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 99(1)(o): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 99(1)(oa): inserted, on 28 February 2019, by section 112(5) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 99(1)(p)(ii): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **100 Obligations of Board in relation to Māori**

- (1) In the exercise and performance of its powers and functions, the Board must ensure that the aims and aspirations of Māori as tangata whenua, and the need for the appropriate involvement of Māori as tangata whenua, are integral and ongoing priorities.
- (2) The Board must maintain mechanisms (for example, appointing advisory committees or forming separate caucuses) to ensure that there are at all times readily accessible to it the views of Māori as tangata whenua.

## **101 Obtaining views of ethnic and cultural groups**

The Board—

- (a) must maintain mechanisms (for example, appointing advisory committees or forming separate caucuses) to ensure that there are at all times readily accessible to it the views of Pacific people; and

- (b) must either maintain, or from time to time set in place as the need arises, mechanisms to ensure that it has access to the views of other ethnic and cultural groups in New Zealand.

### **102 Restriction on Ministerial direction**

The Minister may not give a direction under section 103 of the Crown Entities Act 2004 relating to the registration of individual social workers.

Section 102: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 102: amended, on 28 February 2019, by section 114 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **103 Other provisions relating to requirements**

*[Repealed]*

Section 103: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **104 Review of operation of Act**

- (1) As soon as is practicable after the expiry of the period of 3 years beginning on the commencement of section 99, and then at intervals of not more than 5 years, the Board must—
  - (a) review the operation of this Act, and its own operations, since—
    - (i) the commencement of this Part (in the case of the first review carried out under this paragraph); and
    - (ii) the date of the last review carried out under this paragraph (in the case of every later review); and
  - (b) consider whether any amendments to this Act are necessary or desirable; and
  - (c) report its findings to the Minister.
- (2) Within 12 sitting days after receiving the report, the Minister must present a copy to the House of Representatives.

Section 104(1)(b): replaced, on 28 February 2019, by section 115 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **105 Code of conduct**

- (1) The Board must issue and maintain a code of conduct covering the minimum standards of integrity and conduct that—
  - (a) are to apply to social workers; and
  - (b) should apply generally in the social work profession.
- (2) Before it issues or amends the code of conduct, the Board must consult—
  - (a) organisations and individuals that, in its opinion, represent social workers; and

- (b) organisations and individuals that, in its opinion, represent employers of social workers.

Section 105(1)(a): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## 106 Membership

- (1) The Board comprises—
  - (a) 6 registered social workers (not being registered social workers whose registration is suspended); and
  - (b) 4 other people.
- (2) Before the transition day, the references in subsection (1)(a) and clause 37 of Schedule 1 to registered social workers must be read as references to people engaged or employed as a social worker.
- (3) Members of the Board are the board for the purposes of the Crown Entities Act 2004.

Section 106(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## 107 Additional information in annual report

In addition to the information required by section 151 of the Crown Entities Act 2004, the annual report of the Board under section 150 of that Act must include a report on any other matters affecting the social work profession that the Board thinks fit.

Section 107: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## 108 Board may set fees

- (1) The Board may from time to time, by notice in the *Gazette*, set fees payable in respect of the following matters:
  - (a) applications for registration:
  - (b) additions or alterations to the Register:
  - (c) the issue of practising certificates:
  - (d) the issue of other certificates:
  - (e) the issue of copies of certificates:
  - (f) the supply of a copy of an entry in the Register:
  - (g) inspecting the Register, or any other document kept by the Board that is open for inspection:
  - (h) supplying to any social worker any document, other than a certificate of registration, required by him or her for the purpose of seeking registration overseas:
  - (i) sitting any examination set or assessment recognised by the Board:

- (j) the setting and conduct of competence assessments:
  - (k) any other matter relating to anything the Board is required to do in order to carry out its functions.
- (2) The notice may exempt people of any kind or description from liability to pay any fee, and may provide for the waiver or refund of any fee.

Section 108(1)(h): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 108(1)(i): amended, on 28 February 2019, by section 117(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 108(1)(j): amended, on 28 February 2019, by section 117(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **109 Disciplinary levy**

- (1) The Board may from time to time, by notice in the *Gazette*, impose on every social worker a levy of any amount it thinks fit for the purpose of investigations and other proceedings concerning discipline under this Act.
- (2) The notice may exempt people of any kind or description from liability to pay the levy, and may provide for the waiver or refund of the levy.

Section 109(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **110 Further provisions relating to fees and levy**

- (1) The Board may at any time, by notice in the *Gazette*, amend or revoke any notice published under section 108 or section 109.
- (2) Every notice published under section 108, section 109, or this section comes into force on a day stated in it, being a day at least 28 days after the date of publication of the notice.
- (3) A notice published under section 108 or 109 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.
- (4) Every fee set under section 108 and every levy imposed under section 109 is payable to the Board, and recoverable by the Board as a debt due to the Board.
- (5) The Registrar may decline to do or permit to be done any act in respect of which a fee is payable to the Board under this Act, until the fee is paid.

Section 110(3): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

### **111 Application of income**

*[Repealed]*

Section 111: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**112 Directions and resolutions to be in writing**

*[Repealed]*

Section 112: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**113 Other provisions relating to Board**

The provisions set out in Schedule 1 apply to the Board.

*Social Workers Complaints and Disciplinary Tribunal*

**114 Social Workers Complaints and Disciplinary Tribunal established**

This section establishes the Social Workers Complaints and Disciplinary Tribunal.

**115 Function of Tribunal**

The Tribunal's functions are—

- (a) *[Repealed]*
- (b) to exercise the disciplinary powers over social workers conferred by this Act; and
- (c) any other functions conferred or imposed on it by or under this Act or any other enactment.

Section 115(a): repealed, on 28 February 2019, by section 118 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 115(b): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**116 Membership of Tribunal**

- (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.
- (2) A member of the Board is not eligible to be a member of the Tribunal.

Section 116(1): replaced, on 28 February 2019, by section 119 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

**117 Suitability of certain people to be appointed**

In considering the suitability of any person to be appointed to the Tribunal under section 116(1)(b), the Minister must—

- (a) have regard not only to the person's qualifications but also to his or her knowledge and experience of matters likely to come before the Tribunal; and
- (b) *[Repealed]*
- (c) have regard to the need to ensure that the Tribunal has—
  - (i) enough people who represent Māori; and
  - (ii) enough people who represent different ethnic and cultural groups in New Zealand.

Section 117: amended, on 28 February 2019, by section 120(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 117: amended, on 28 February 2019, by section 120(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 117(a): amended, on 28 February 2019, by section 120(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 117(b): repealed, on 28 February 2019, by section 120(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **118 Removal of members**

- (1) The Minister must remove a person from the Tribunal if—
  - (a) he or she is adjudged bankrupt under the Insolvency Act 2006; or
  - (b) 5 years has elapsed since the date on which he or she was appointed to the Tribunal; or
  - (c) he or she gives the Minister written notice asking to be removed from the Tribunal.
- (2) The Minister may remove a person from the Tribunal if the chairperson recommends the person's removal—
  - (a) because the person is unable to perform his or her duties adequately; or
  - (b) for neglect of duty or misconduct, proved to the chairperson's satisfaction.
- (3) A person may not be removed from the Tribunal under paragraph (b) or paragraph (c) of subsection (1) until any hearings in respect of which that person was appointed to the Tribunal have concluded.
- (4) No person is entitled to compensation for removal from the Tribunal.

Section 118(1): amended, on 28 February 2019, by section 121(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 118(1)(a): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 118(1)(c): amended, on 28 February 2019, by section 121(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 118(2): amended, on 28 February 2019, by section 121(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 118(2): amended, on 28 February 2019, by section 121(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **119 Hearings by Tribunal**

- (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
  - (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.
- (2) A hearing of the Tribunal—
  - (a) must be held at times and places the Tribunal or the presiding officer appoints for it; and
  - (b) may be adjourned from time to time and from place to place by the Tribunal or the presiding officer.
- (3) A hearing of the Tribunal must not take place unless all its members for the hearing are present; but a decision of a majority of those members is the decision of the Tribunal for the purposes of the hearing.

Section 119(1): replaced, on 28 February 2019, by section 122 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **120 Other provisions relating to Tribunal**

The provisions set out in Schedule 2 apply to the Tribunal.

## **Part 7 Register and Registrar**

### *Register of Social Workers*

#### **121 Register of social workers**

The Board must keep a register of social workers.

#### **122 Register to be maintained in parts**

The Registrar must keep the Register in 3 separate parts—

- (a) one for information relating to people who do not hold limited registration; and
- (b) one for information relating to people who hold provisional registration; and
- (c) one for information relating to people who hold temporary registration.

**123 Information to be registered**

- (1) The information to be entered in the Register in respect of a person is—
  - (a) the person's name;
  - (b) the person's home or work address;
  - (ba) the person's electronic address (if the person has one);
  - (c) particulars of any qualifications by virtue of which the person is registered;
  - (d) the type of registration the person holds;
  - (e) the date on which the Board decided that the person should be registered;
  - (f) the date of registration;
  - (g) any other matters prescribed by regulations made under this Act;
  - (h) any other matters the Board thinks appropriate.
- (2) The home or work address must be the physical address of the premises concerned.
- (3) The following information must also be entered in the Register in respect of a person who is registered:
  - (a) any current conditions subject to which the person is registered;
  - (b) any current conditions subject to which the person is registered;
  - (c) if the person's registration is suspended,—
    - (i) the fact that it is suspended; and
    - (ii) any current conditions relating to its suspension;
  - (d) any current conditions imposed under section 77(1)(b) or section 83(1)(a)(ii) on the person's ability to practise as a social worker;
  - (e) particulars of all practising certificates issued to the person;
  - (f) any conditions to which the person's current practising certificate is subject;
  - (g) if the person's current practising certificate is suspended,—
    - (i) the fact that it is suspended; and
    - (ii) any current conditions relating to its suspension.
- (4) The Registrar must, if satisfied that any of the following information has changed or is incorrect, make all amendments to the Register necessary to reflect—
  - (a) any changes or errors in the information referred to in subsection (1)(d) or subsection (3);
  - (b) any changes or errors notified to the Registrar in any other information referred to in subsection (1).



Section 123(1)(ba): inserted, on 28 February 2019, by section 123(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 123(3)(b): amended, on 28 February 2019, by section 123(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 123(3)(d): amended, on 28 February 2019, by section 123(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 123(3)(f): amended, on 28 February 2019, by section 123(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 123(4): amended, on 28 February 2019, by section 123(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 123(4)(a): amended, on 28 February 2019, by section 123(5) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 123(4)(b): amended, on 28 February 2019, by section 123(5) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **124 Certificates of registered information**

On payment of the fee (if any) set by the Board, the Registrar must give a person who asks for it a certificate—

- (a) stating all the current information then entered in the Register in relation to a particular person (other than his or her home address); and
- (b) stating that it is all the current information then entered in the Register in relation to the person (other than his or her home address); and
- (c) signed and dated by the Registrar.

## **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.

Section 125: replaced, on 28 February 2019, by section 125 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **126 Changes of name**

*[Repealed]*

Section 126: repealed, on 28 February 2019, by section 126 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **127 Social worker may ask for registration to be cancelled**

- (1) On the written application of a social worker, the Board may cancel the social worker's registration.
- (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.
- (3) The Registrar must make reasonable efforts to give a copy of the direction to the social worker.

Section 127(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 127(2): replaced, on 28 February 2019, by section 127 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **128 Entry to be cancelled on death of social worker**

- (1) Promptly after registering the death of a person who appears to have been a social worker, a Registrar (within the meaning of section 2 of the Births, Deaths, Marriages, and Relationships Registration Act 1995) must give the Registrar written notice of the death, with particulars of its date and place.
- (2) If there is an entry in the Register relating to the person, the Registrar must, as soon as is practicable after receiving the notice, cancel it.
- (3) The Board may direct the Registrar to cancel the entry in the Register relating to a social worker if it believes on reasonable grounds (other than having received a certificate of cause of death (as defined in section 2(1) of the Burial and Cremation Act 1964)) that a social worker has died.
- (4) The Registrar must make reasonable efforts to give a copy of the direction to the social worker's personal representative.
- (5) *[Repealed]*

Section 128(1): substituted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 128(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 128(3): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 128(3): amended, on 31 January 2018, by section 11 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 128(5): repealed, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

### **129 Revision of Register**

- (1) The Registrar may at any time, and must if the Board directs, ask whether a social worker—
  - (a) has stopped practising social work; or
  - (b) is living, or intends to continue to live, overseas; or
  - (c) for any reason wishes to have the entry in the Register relating to him or her cancelled.

- (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.
- (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.
- (4) If the Registrar does not receive a reply to the letter within 6 months after it was posted, or if the letter is returned to the Registrar undelivered, the Board may cancel the social worker's registration.
- (5) The Registrar must make reasonable efforts to give a copy of a direction under subsection (3) or subsection (4) to the social worker concerned.

Section 129(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 129(1)(c): amended, on 28 February 2019, by section 128(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 129(2): replaced, on 28 February 2019, by section 128(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 129(3): replaced, on 28 February 2019, by section 128(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 129(3A): inserted, on 28 February 2019, by section 128(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **130 Restoration of entries**

- (1) This section applies to a person if the entry in the Register relating to him or her has been cancelled under section 128(3), or subsection (3) or subsection (4) of section 129.
- (2) On the written application of a person to whom this section applies, the Board must direct the Registrar to restore the entry in the Register relating to the person.

### **131 Review of registration of overseas qualified person**

- (1) The Board may direct the Registrar to cancel the entry in the Register relating to a social worker who is registered by virtue of being entitled to registration under section 7, if it believes on reasonable grounds that he or she—
  - (a) has in any period of 3 consecutive years since being registered resided outside New Zealand for a period of 6 consecutive months; and
  - (b) intends to continue to reside overseas.

- (2) Subsection (1) does not apply to—
  - (a) a period before the commencement of this section during which a person resided outside New Zealand; or
  - (b) any period of not more than 3 years during which a person resided outside New Zealand while undertaking post-graduate study in social work or a subject related to social work.
- (3) The Board must not give a direction under subsection (1) unless—
  - (a) the Registrar has made reasonable efforts to give the social worker concerned—
    - (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 that the social worker has a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by a representative; and
  - (b) if the Registrar has succeeded, the Board—
    - (i) has 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) has considered any written or oral submissions made to it within a reasonable time of the social worker’s being given the notice referred to in paragraph (a)(iv).
- (4) 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.
- (5) The Board may permit a person exercising his or her right to be heard personally to be accompanied by any number of people of his or her choice who agree to attend, in addition to the person by whom he or she is entitled to be accompanied by subsection (4).
- (6) The Registrar must make reasonable efforts to give a copy of a direction under subsection (1) to the social worker concerned.
- (7) The Board must direct the Registrar to restore the entry in the Register relating to a social worker whose entry has been cancelled under this section if—
  - (a) the social worker applies to the Board in writing to have the entry restored; and
  - (b) the Board is satisfied that he or she intends to reside in New Zealand.
- (8) The direction to restore the entry may be made subject to the person’s competence to practise social work being found satisfactory under Part 3.

Section 131 heading: replaced, on 28 February 2019, by section 129(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 131(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 131(2): amended, on 28 February 2019, by section 129(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 131(3)(a)(iii): amended, on 28 February 2019, by section 129(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 131(7): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **132 Cancellation of registration on Board's direction**

- (1) The Board may direct the Registrar to cancel the entry in the Register relating to a social worker, and give him or her notice of the cancellation, if it is satisfied that he or she—
  - (a) obtained registration by making a false or misleading representation or declaration (whether oral or written); or
  - (b) was not entitled to be registered.
- (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 their right to be heard personally is entitled to be accompanied by 1 person of their choice who agrees to attend.
- (2) The Registrar must make reasonable efforts to give to the social worker concerned a copy of a direction under subsection (1).

- (3) If no appeal against the order has been made within the time provided by this Act, the Board may direct the Registrar to notify the cancellation in any publications the Board directs.

Section 132(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 132(1A): inserted, on 28 February 2019, by section 130 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 132(1B): inserted, on 28 February 2019, by section 130 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **133 Removal of qualifications, or cancellation of registration, overseas**

- (1) The Board may review the registration of a social worker who is registered by virtue of being entitled to registration under section 7, if satisfied that—
- (a) the educational establishment that gave him or her the overseas qualification equivalent to a recognised New Zealand qualification has cancelled or suspended it (or taken action equivalent to cancelling or suspending it); or
  - (b) an overseas authority that maintains a register of people registered or licensed as social workers (or as practitioners of a profession equivalent to that of a social worker) has—
    - (i) removed his or her name from that register; or
    - (ii) suspended his or her registration; or
    - (iii) taken action equivalent to removing his or her name from that register or suspending his or her registration.
- (2) The Board must take all reasonably practicable steps to ensure that the social worker is given—
- (a) written notice containing enough details to inform him or her clearly of the substance of the grounds on which the Board has decided to carry out the review; and
  - (b) any written information and a written summary of any other information in the Board's possession relating to the cancellation, suspension, or removal concerned; and
  - (c) a reasonable opportunity to make written submissions and be heard on the matter, either personally or by a representative.
- (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.
- (4) The Board may permit a person exercising his or her right to be heard personally to be accompanied by any number of people of his or her choice who agree to attend, in addition to the person by whom he or she is entitled to be accompanied by subsection (3).

- (5) Except as provided in subsections (2) to (4), the form of the review is at the Board's discretion.
- (6) After the review, the Board, if it thinks it appropriate to do so,—
  - (a) may direct the Registrar to note in the Register the cancellation, suspension, or removal concerned; and
  - (b) may either—
    - (i) suspend the social worker's registration for any period it thinks fit, and direct the Registrar to note the suspension in the Register; or
    - (ii) direct the Registrar to cancel the entry in the Register relating to the social worker.
- (7) The Registrar must take all reasonably practicable steps to ensure that the social worker is given a copy of any direction under subsection (6).

Section 133(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 133(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 133(2)(b): amended, on 28 February 2019, by section 131 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 133(6)(b)(i): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 133(6)(b)(ii): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 133(7): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **134 Cancellation or suspension not to affect existing liabilities**

The cancellation or suspension of a social worker's registration or the suspension of their practising certificate does not affect their liability for any act or default occurring before the cancellation or suspension.

Section 134: amended, on 28 February 2019, by section 132 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 134: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **135 Board to publish Register**

- (1) The Board must from time to time publish the Register, in any form it thinks fit.
- (2) The publication must not contain the home addresses or electronic addresses of social workers.
- (3) Publication may be in printed or electronic form.
- (4) The Board may publish the Register with some of the information it contains abbreviated, so long as all abbreviations are explained or easily understandable.
- (5) Subsections (3) and (4) do not limit the generality of subsection (1).

Section 135(2): amended, on 28 February 2019, by section 133 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 135(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **136 Inspection of Register**

- (1) The Registrar must keep the published form of the Register open for public inspection at the offices of the Board during its ordinary office hours.
- (2) The Registrar must ensure that there are available at the offices of the Board during its ordinary office hours—
  - (a) copies of the published form of the Register; or
  - (b) suitable facilities for obtaining print-outs of the published form of the Register.
- (3) The Registrar—
  - (a) may refuse to allow a person to inspect the published form of the Register if the person does not pay the fee (if any) set by the Board for inspecting it; and
  - (b) may refuse to give a copy or print-out of the published form of the Register or any part of it to any person who does not pay the fee (if any) set by the Board for such a copy or print-out.

#### *Registrar*

### **137 Board to appoint Registrar**

- (1) The Board must appoint one of its employees as Registrar of the Register of Social Workers.
- (2) The Registrar may be the same person as the chief executive of the Board.

Section 137(1): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 137(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **138 Registrar to comply with directions of Board**

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

Section 138: replaced, on 28 February 2019, by section 134 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

### **139 Registrar may refuse to act if fine or costs outstanding, or fee not paid**

- (1) If a person has not paid a fine imposed on him or her under this Act, or any costs or expenses payable by him or her by an order under this Act, the Registrar may refuse to—
  - (a) issue a certificate of registration to the person:



- (b) refer to the Board an application for registration made by the person:
  - (c) renew the person's registration:
  - (d) issue a practising certificate to the person:
  - (e) refer to the Board an application for a practising certificate made by the person.
- (2) If a person has not paid any fee set by the Board for the issue of a practising certificate, the Registrar may refuse to—
- (a) issue a practising certificate to the person:
  - (b) refer to the Board an application for a practising certificate made by the person.
- (3) A person aggrieved by a refusal of the Registrar under subsection (1) may, by written application to the Board, ask the Board to review the refusal; and in that case, the Board—
- (a) must promptly review the refusal; and
  - (b) must either confirm it or (as the case requires) direct the Registrar to issue a certificate of registration or practising certificate to, or renew the registration of, or refer to the Board the application made by, the person.

#### **140 Notice of conditions imposed on registration or practising certificate**

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 any conditions imposed on his or her registration or practising certificate.

Section 140 heading: amended, on 28 February 2019, by section 135(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 140: amended, on 28 February 2019, by section 135(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 140: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **Part 8**

### **Miscellaneous, transitional, and consequential provisions**

#### *Miscellaneous provisions*

#### **141 Certificate of Registrar to be evidence**

- (1) In the absence of proof to the contrary, a certificate purporting to be signed by the Registrar is for all purposes sufficient evidence of—
- (a) whether any person was or was not registered, or was or was not the holder of a practising certificate, at a time or during a period stated in the certificate:

- (b) any entry in the Register:
  - (c) any act or proceeding of the Board, a committee of the Board, or a professional conduct committee.
- (2) In the absence of proof to the contrary, a certificate purporting to be signed by the Registrar is for all purposes sufficient evidence of any matter stated in the certificate relating to the proceedings of the Tribunal.

Section 141(1)(c): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **142 Board may withhold information in certain circumstances**

Nothing in this Act requires the Board to make available to any person any information that could be withheld under the Official Information Act 1982.

#### **143 Immunity of members and legal advisers of professional conduct committees and other from civil liability to third parties**

Section 121(2) of the Crown Entities Act 2004 applies, with any necessary modifications, to a member of a professional conduct committee and any legal adviser appointed to assist a professional conduct committee as if he or she were an office holder.

Section 143: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 143 heading: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 143: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **144 Proceedings not invalid because of defect in appointment**

- (1) This section applies to a professional conduct committee, and the Tribunal.
- (2) No act or proceeding of a body to which this section applies, or of a person acting as a member of a body to which this section applies, is invalid because—
- (a) there was a defect in the appointment of a person acting as a member of the body; or
  - (b) a person acting as a member of the body was incapable of being, or had ceased to be, a member of it.

Section 144(1): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 144(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **145 Notice and service of documents**

- (1) Unless this Act provides otherwise, if a provision of this Act or of any regulations made under it requires or authorises any notice or other document, or any

notification, to be given to a person, the notice, document, or notification must be given in writing to the person—

- (a) by delivering it personally to the person; or
  - (b) by sending it by pre-paid post addressed to the person at the person's usual or last known place of residence or business; or
  - (ba) by sending it to the electronic address provided by the person; or
  - (c) in any other manner a District Court Judge directs.
- (2) In the absence of proof to the contrary, a notice, document, or notification sent by post to a person in accordance with subsection (1)(b) must be treated as having been given to the person when it would have been delivered in the ordinary course of the post; and in proving the delivery, it is enough to prove the letter was properly addressed and posted.
  - (3) If a person is absent from New Zealand, a notice, document, or notification given to the person's agent in New Zealand in accordance with subsection (1) must be treated as having been given to him or her.
  - (4) If a person has died, the notice, document, or notification may be given, in accordance with subsection (1), to his or her personal representative.

Section 145(1)(ba): inserted, on 28 February 2019, by section 137 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **146 Publication of orders**

- (1) The Board may direct the Registrar to publish, in any publications it directs, a notice stating—
  - (a) the effect of any order or direction it has made or given under this Act in respect of a social worker; and
  - (b) the name of the social worker.
- (2) If the Tribunal makes an order under this Act in respect of a social worker, the Registrar must publish, in any publications the Tribunal directs, a notice stating—
  - (a) the effect of the order; and
  - (b) the name of the social worker; and
  - (c) a summary of the proceedings in which the order was made.
- (3) If a court makes an order under this Act in respect of a social worker, the Registrar must publish, in any publications the court directs, a notice stating—
  - (a) the effect of the order; and
  - (b) the name of the social worker; and
  - (c) a summary of the proceedings in which the order was made.

- (4) There must not be published under subsection (2) or (3) anything that is the subject of an order under section 79(2) or the particulars or evidence described in section 80(6).
- (5) Subsections (2) and (3) are subject to any order of a court.  
Section 146(4): amended, on 28 February 2019, by section 138 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **147 Regulations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for the following purposes:
  - (a) regulating the procedure of the Board, the Tribunal, or professional conduct committees:
  - (aa) regulating the use of identification by social workers when dealing with members of the public:
  - (b) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.
- (2) The Minister must not recommend the making of regulations without consulting the Board.

Section 147(1): amended, on 28 February 2019, by section 139(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 147(1)(a): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 147(1)(aa): inserted, on 28 February 2019, by section 139(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **148 Offences**

- (1) Every person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$10,000 or both, who, for the purpose of obtaining registration or a practising certificate (for himself or herself or for any other person),—
  - (a) makes an oral or written declaration or representation that, to his or her knowledge, is false or misleading in a material particular; or
  - (b) produces a document to the Board, or otherwise uses a document, knowing that it contains a declaration or representation that, to his or her knowledge, is false or misleading in a material particular; or
  - (c) produces a document to the Board, or otherwise uses a document, knowing that it is not genuine.
- (2) Every 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, who holds himself or herself out as a registered social worker when—
  - (a) he or she is not a registered social worker; or

- (b) he or she is a registered social worker, but his or her registration is suspended.
- (3) Every registered social worker 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, who is engaged or employed as a social worker contrary to section 25.
- (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
    - (ii) who does not hold a current practising certificate; or
    - (iii) who holds a current practising certificate that is suspended.
- (5) A social worker 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, who—
  - (a) holds himself or herself out as holding a current practising certificate when—
    - (i) he or she does not hold a current practising certificate; or
    - (ii) his or her current practising certificate is suspended; or
  - (b) fails or refuses to comply with—
    - (i) a condition on his or her registration; or
    - (ii) a condition on his or her practising certificate.
- (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).

Section 148(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 148(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 148(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 148(4): replaced, on 28 February 2019, by section 141(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 148(5): amended, on 28 February 2019, by section 141(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 148(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 148(5)(b)(i): amended, on 28 February 2019, by section 141(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 148(6): inserted, on 28 February 2019, by section 141(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 148(7): inserted, on 28 February 2019, by section 141(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Section 148(8): inserted, on 28 February 2019, by section 141(4) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **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.

Section 148A: inserted, on 28 February 2019, by section 143 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### *Consequential amendments*

#### **149 Consequential amendments**

The enactments specified in Schedule 3 are amended in the manner indicated in that schedule.

## Schedule 1AA

### Transitional, savings, and related provisions

s 4A

Schedule 1AA: inserted, on 28 February 2019, by section 145 of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### Part 1

#### Provisions relating to Social Workers Registration Legislation Act 2019

- 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 11 of the Social Workers Registration Legislation Act 2019 comes into force. (That section inserts new sections 6AA 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 24 of the Social Workers Registration Legislation Act 2019 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.

**3 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 11 of the Social Workers Registration Legislation Act 2019 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.

**4 Complaints assessment committees**

- (1) For the purpose of this clause, **commencement date** means the date on which section 94 of the Social Workers Registration Legislation Act 2019 comes into force.
- (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.

#### **5 Continuation of membership of Board**

- (1) For the purpose of this clause, **commencement date** means the date on which section 116 of the Social Workers Registration Legislation Act 2019 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 their term or until the occurrence of any of the events described in section 45 of the Crown Entities Act 2004.

#### **6 Continuation of membership of Tribunal**

- (1) For the purpose of this clause, **commencement date** means the date on which section 119 of the Social Workers Registration Legislation Act 2019 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 their term of appointment expires; or
  - (b) continues as a member until 5 years has elapsed since the date on which they were appointed in accordance with section 118(1)(b) of this Act.

## Schedule 1

### Provisions applying to Social Workers Registration Board

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## 1 Interpretation

*[Repealed]*

Schedule 1 clause 1: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### *Members' appointments*

## 2 Criteria for appointment

- (1) Members must be appointed by the Minister under section 28(1)(a) of the Crown Entities Act 2004 after consultation with organisations and individuals that, in the Minister's opinion, represent various sectors of the social work profession.
- (2) The Minister—
  - (a) *[Repealed]*
  - (b) in appointing members, must take all reasonable steps to ensure that the Board will be representative of—
    - (i) the social work profession (including social workers employed by Government and non-Government organisations); and
    - (ia) employers of social workers; and
    - (ii) advocates for consumers of services provided by social workers; and
    - (iii) social work educators; and
    - (iv) Māori; and
    - (v) different ethnic and cultural groups in New Zealand.
- (3) Subclauses (1) and (2) do not limit section 29 of the Crown Entities Act 2004.
- (4) In addition to the matters in section 30(2) of the Crown Entities Act 2004, a person employed by a department of State responsible for advising the Minister on the Board's performance is disqualified from being appointed as a member.

Schedule 1 clause 2(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 2(2)(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 2(2)(b)(ia): inserted, on 28 February 2019, by section 146(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Schedule 1 clause 2(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 2(4): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **3 Restrictions on people who may be members**

*[Repealed]*

Schedule 1 clause 3: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **4 Method of appointment**

*[Repealed]*

Schedule 1 clause 4: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **5 Members must consent and certify to appointment and disclose interests**

*[Repealed]*

Schedule 1 clause 5: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## *Term of office*

### **6 Term of office**

*[Repealed]*

Schedule 1 clause 6: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **7 Limit on term**

- (1) No person may be a member for more than 6 consecutive years.
- (2) A member whose term of office has expired or who has resigned from office may continue in office for the purpose of completing any proceedings heard by the Board before the expiry or resignation concerned, whether or not his or her successor has come into office.
- (3) Subclause (2) overrides subclause (1).
- (4) This clause applies despite sections 32(2) and 45 of the Crown Entities Act 2004.

Schedule 1 clause 7(4): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**8 Position where concurrent office**

*[Repealed]*

Schedule 1 clause 8: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Vacation of office by members*

**9 Resignation**

*[Repealed]*

Schedule 1 clause 9: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**10 Vacation of office if status changes**

- (1) A member who was a social worker registered under this Act when last appointed vacates office if their registration is cancelled or suspended or their practising certificate is suspended.
- (2) A member last appointed on or after the transition day who was not then a social worker vacates office if he or she becomes a social worker.
- (3) A member appointed before the transition day who was then engaged or employed as a social worker vacates office on that day if he or she is not then a social worker.
- (4) A member appointed before the transition day who was not then engaged or employed as a social worker vacates office if he or she becomes a social worker.
- (5) This clause does not limit section 45 of the Crown Entities Act 2004.

Schedule 1 clause 10(1): replaced, on 28 February 2019, by section 146(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Schedule 1 clause 10(2): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Schedule 1 clause 10(3): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Schedule 1 clause 10(4): amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Schedule 1 clause 10(5): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**11 Removal from office**

*[Repealed]*

Schedule 1 clause 11: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Vacancies in Board's membership*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**12 Effect of vacancy in membership**

*[Repealed]*

Schedule 1 clause 12: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Remuneration*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**13 Remuneration of members**

*[Repealed]*

Schedule 1 clause 13: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Chairperson and deputy chairperson*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**14 Election**

*[Repealed]*

Schedule 1 clause 14: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**15 Term of office**

*[Repealed]*

Schedule 1 clause 15: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**16 Removal**

*[Repealed]*

Schedule 1 clause 16: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**17 Resignation**

*[Repealed]*

Schedule 1 clause 17: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**18 Exercise of chairperson's functions, duties, and powers during vacancy, etc**

*[Repealed]*

Schedule 1 clause 18: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Acts not to be called into question*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**19 Acts not to be called into question**

*[Repealed]*

Schedule 1 clause 19: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Members representing other members*

**20 Members representing other members**

- (1) A member of the Board (the **appointing member**) may give the Registrar notice appointing another member of the Board (the **representative**) to represent him or her at 1 or more meetings of the Board stated in the notice.
- (2) The appointment of the representative ceases if—
  - (a) the appointing member—
    - (i) gives the Registrar notice revoking the appointment; or
    - (ii) ceases to be a member of the Board; or
  - (b) the representative ceases to be a member of the Board.
- (3) A notice may be given in writing, or by mail or electronic transmission.
- (4) At a meeting of the Board stated in the notice appointing him or her (other than a meeting that the appointing member in fact attends), the representative may vote on behalf of the appointing member, as well as voting on his or her own behalf.
- (5) The representative—
  - (a) may not, in his or her capacity as a representative,—
    - (i) act as chairperson or deputy chairperson of the Board; or
    - (ii) cast a casting vote; or
    - (iii) witness the affixing of the Board's seal; and
  - (b) must be counted only once in determining whether the quorum necessary for transacting business at a meeting of the Board is present; and
  - (c) may not assent twice to a resolution under clause 40; and



- (d) may not vote twice on a matter being considered by a teleconference meeting.

*Duties of members*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**21 Duties of members**

*[Repealed]*

Schedule 1 clause 21: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Liability of members*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**22 Liability of members and committee members**

*[Repealed]*

Schedule 1 clause 22: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Disclosure of interest*

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

**23 Obligation to disclose interest**

*[Repealed]*

Schedule 1 clause 23: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**24 Meaning of interested**

*[Repealed]*

Schedule 1 clause 24: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**25 Disclosure of interest**

*[Repealed]*

Schedule 1 clause 25: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**26 Consequences of disclosure**

*[Repealed]*

Schedule 1 clause 26: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**27 Matters to be delegated to committee**

*[Repealed]*

Schedule 1 clause 27: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**28 Exceptions**

*[Repealed]*

Schedule 1 clause 28: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**29 Effect of non-compliance**

*[Repealed]*

Schedule 1 clause 29: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Use of information*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**30 Restrictions on disclosure or use of information**

*[Repealed]*

Schedule 1 clause 30: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**31 When member may rely on certain information and advice**

*[Repealed]*

Schedule 1 clause 31: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**32 When clause 31 applies**

*[Repealed]*

Schedule 1 clause 32: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Procedure of Board: General*

**33 Procedure generally**

- (1) In relation to a matter concerning a particular person, the Board must observe the rules of natural justice.
- (2) The Board may receive as evidence any statement, document, information, or matter, whether or not it would be admissible in a court of law.
- (3) *[Repealed]*

Schedule 1 clause 33(3): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Procedure of Board: Meetings*

**34 Ordinary meetings**

*[Repealed]*

Schedule 1 clause 34: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**35 Special meetings**

*[Repealed]*

Schedule 1 clause 35: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**36 Telephone conference meetings**

*[Repealed]*

Schedule 1 clause 36: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**37 Quorum**

- (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.
- (2) This clause applies despite clause 9(1) and (2) of Schedule 5 of the Crown Entities Act 2004.

Schedule 1 clause 37(1): replaced, on 28 February 2019, by section 146(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Schedule 1 clause 37(2): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**38 Chairperson to preside at meetings**

*[Repealed]*

Schedule 1 clause 38: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**39 Voting**

- (1) *[Repealed]*
- (2) *[Repealed]*
- (3) A member of the Board must not be present or vote or otherwise participate (as a member of the Board or a representative under clause 20) at any part of a meeting of the Board where any matter relating to the member's registration, suspension, competence, fitness to practise, or discipline under this Act is being considered.

Schedule 1 clause 39(1): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 39(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **40 Resolution assented to by members**

*[Repealed]*

Schedule 1 clause 40: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **41 Method of contracting**

*[Repealed]*

Schedule 1 clause 41: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### *Committees and delegations*

#### **42 Committees**

*[Repealed]*

Schedule 1 clause 42: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **43 Restriction on delegation**

(1) The Board may not delegate its functions, duties, and powers relating to registration.

(2) In other respects, section 73 of the Crown Entities Act 2004 applies.

Schedule 1 clause 43: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **44 Effect of delegation**

*[Repealed]*

Schedule 1 clause 44: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **45 Presumption of acting in accordance with delegation**

*[Repealed]*

Schedule 1 clause 45: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **46 Other matters relating to delegation**

*[Repealed]*

Schedule 1 clause 46: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**47 Expenses of Board**

*[Repealed]*

Schedule 1 clause 47: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Employees*

**48 Appointment of secretary**

*[Repealed]*

Schedule 1 clause 48: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**49 Appointment of other employees**

*[Repealed]*

Schedule 1 clause 49: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**50 Liability of employees**

*[Repealed]*

Schedule 1 clause 50: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**51 Personnel policy**

*[Repealed]*

Schedule 1 clause 51: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**52 Equal employment opportunities**

*[Repealed]*

Schedule 1 clause 52: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**53 Superannuation or retiring allowances**

*[Repealed]*

Schedule 1 clause 53: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**54 Application of certain Acts to members and employees**

*[Repealed]*

Schedule 1 clause 54: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**55 Legal advisers**

- (1) The Board may appoint a legal adviser, who—
  - (a) may be present at any proceedings of the Board; and

- (b) may at any time advise the Board on matters of law, procedure, or evidence.
- (2) The legal adviser must not be present during any deliberations of the Board.
- (3) Subclause (1) does not limit sections 16 and 17 of the Crown Entities Act 2004.

Schedule 1 clause 55(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**56 Common seal**

*[Repealed]*

Schedule 1 clause 56: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## Schedule 2

### Provisions applying to Social Workers Complaints and Disciplinary Tribunal

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#### **1 Deputy chairperson**

- (1) The deputy chairperson of the Tribunal has and may perform and exercise all the functions, duties, and powers of its chairperson if—
  - (a) the chairperson becomes incapable of acting as chairperson because of illness, absence, or any other reason; or
  - (b) there is a vacancy in the office of chairperson.
- (2) While acting for or in the place of the chairperson, the deputy chairperson must be treated as the chairperson.
- (3) No act done by the deputy chairperson while acting for or in the place of the chairperson, and no act done by the Tribunal while the deputy chairperson is acting for or in the place of the chairperson, may be questioned in any proceedings on the ground that the occasion for the deputy chairperson's so acting had not arisen or had ceased.
- (4) If there are 2 or more deputy chairpersons of the Tribunal,—
  - (a) the Board must from time to time, by written notice, nominate which of them is to perform and exercise the functions, duties, and powers of the

chairperson of the Tribunal in the circumstances stated in subclause (1);  
and

- (b) references in this clause to the deputy chairperson are references to the deputy chairperson for the time being nominated.

## **2 Term of office**

- (1) The chairperson and each deputy chairperson of the Tribunal—
- (a) is appointed for a term not exceeding 3 years; and
- (b) takes office from the date of the notice of appointment or any later date specified in it; and
- (c) is eligible for re-appointment.
- (2) No person may hold office as chairperson or deputy chairperson of the Tribunal for more than 6 consecutive years.
- (3) A person whose term of office as chairperson or deputy chairperson of the Tribunal has expired or who has resigned from office as chairperson or as deputy chairperson of the Tribunal may continue in office for the purpose of completing any proceedings heard by the Tribunal before the expiry or resignation concerned, whether or not his or her successor has come into office.
- (4) Subclause (1)(c) is subject to subclause (2).
- (5) Subclause (3) overrides subclauses (1) and (2).

## **3 Vacation of office**

- (1) The chairperson or a deputy chairperson of the Tribunal may resign by written notice to the Minister.
- (2) The chairperson or a deputy chairperson of the Tribunal vacates office if he or she—
- (a) is adjudged bankrupt under the Insolvency Act 2006; or
- (b) becomes a member of the Board.
- (3) The Minister may, by written notice to the chairperson or a deputy chairperson of the Tribunal, remove him or her from office—
- (a) because, in the Minister's opinion, he or she is unable to perform his or her duties adequately; or
- (b) for neglect of duty, or misconduct, proved to the Minister's satisfaction.

Schedule 2 clause 3(1): amended, on 28 February 2019, by section 147(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Schedule 2 clause 3(2)(a): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Schedule 2 clause 3(3): amended, on 28 February 2019, by section 147(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

Schedule 2 clause 3(3)(a): amended, on 28 February 2019, by section 147(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).



Schedule 2 clause 3(3)(b): amended, on 28 February 2019, by section 147(2) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **4 Expenses of Tribunal**

- (1) There may be paid to the members of the Tribunal, and to any Registrar or other officer of the Tribunal, any remuneration (by way of fees, salary, or otherwise) and allowances and expenses the Board from time to time determines.
- (2) The remuneration, allowances, and expenses must be paid out of the funds of the Board.

#### **5 Procedure of Tribunal**

- (1) In relation to a matter concerning a particular person, the Tribunal must observe the rules of natural justice.
- (2) The Tribunal may receive as evidence any statement, document, information, or matter, whether or not it would be admissible in a court of law.
- (3) Subject to this Act and any regulations made under it, the Tribunal may—
  - (a) regulate its procedure in any manner it thinks fit; and
  - (b) prescribe or approve forms for the purposes of hearings.
- (4) The Tribunal must publish any rules of procedure it makes.

#### **6 Evidence**

- (1) The Tribunal may receive in evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matters before it, whether or not it would be admissible in a court of law.
- (2) The Tribunal may take evidence on oath, and for that purpose any of its members or officers may administer an oath.
- (3) The Tribunal may permit a person appearing as a witness before it to give evidence by—
  - (a) submitting a written statement; and
  - (b) if the Tribunal thinks fit, verifying it by oath.
- (4) The Evidence Act 2006 applies to the Tribunal as if it were a court within the meaning of that Act.
- (5) Subclause (4) is subject to subclauses (1) to (3).

Schedule 2 clause 6(4): amended, on 1 August 2007, by section 216 of the Evidence Act 2006 (2006 No 69).

#### **7 Powers of investigation**

- (1) For the purposes of dealing with the matters before it, the Tribunal or any person authorised by it in writing to do so may—
  - (a) inspect and examine any papers, documents, records, or things; or

- (b) require any person to produce for examination any papers, documents, records, or things in his or her possession or under his or her control, and to allow copies of or extracts from any of them to be made; or
- (c) require any person to—
  - (i) provide, in a form approved by or acceptable to the Tribunal, any information or particulars that it may require; or
  - (ii) provide copies of or extracts from any papers, documents, or records in his or her possession or under his or her control.
- (2) The Tribunal may, if it thinks fit, require that any written information or particulars or any copies or extracts furnished under this clause be verified, by statutory declaration or otherwise as the Tribunal requires.
- (3) For the purposes of its proceedings, the Tribunal may, of its own motion or on the application of any party to the proceedings, order that any information or particulars, or a copy of the whole or any part of any paper, document, or record, provided or produced to it be supplied to any person appearing before the Tribunal, and in the order impose such terms and conditions as it thinks fit in respect of such supply and of the use that is to be made of the information, particulars, or copy.

## **8 Witness summons**

- (1) The Tribunal may, of its own motion or on the application of a party to any proceedings, issue to any person a witness summons requiring that person to attend before the Tribunal to give evidence at the hearing of the proceedings.
- (2) The summons must state—
  - (a) the place where the person is to attend; and
  - (b) the date and time when the person is to attend; and
  - (c) the papers, documents, records, or things that the person is required to bring and produce to the Tribunal; and
  - (d) the entitlement to be tendered or paid a sum in respect of allowances and travelling expenses; and
  - (e) the penalty for failing to attend.
- (3) The power to issue a witness summons may be exercised by the Tribunal, the chairperson, a deputy chairperson, or by any officer of the Tribunal purporting to act by the direction or with the authority of the Tribunal, the chairperson, or a deputy chairperson.

## **9 Service of witness summons**

- (1) A witness summons may be served—
  - (a) by delivering it personally to the person summoned; or

- (b) by posting it by letter addressed to the social worker at 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.
- (2) If it is served personally, the summons must be served at least 24 hours before the attendance of the witness is required.
- (3) If it is served by posting, the summons must be served at least 10 days before the day on which the attendance of the witness is required.

Schedule 2 clause 9(1)(b): replaced, on 28 February 2019, by section 147(3) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

## **10 Witnesses' allowances**

- (1) A witness attending before the Tribunal to give evidence pursuant to a summons is entitled to be paid witnesses' fees, allowances, and travelling expenses according to the scales for the time being prescribed by regulations under the Criminal Procedure Act 2011, and those regulations (with any necessary modifications) apply accordingly.
- (2) Each time the Tribunal issues a witness summons, it must fix an amount that, on the service of the summons or at some other reasonable time before the day on which the witness is required to attend, must be paid or tendered to the witness.
- (3) The amount fixed must be the estimated amount of the allowances and travelling expenses to which, in the opinion of the Tribunal, the witness will be entitled according to the prescribed scales if the witness attends at the time and place specified in the summons.
- (4) If a party to the proceedings has requested the issue of the witness summons, the fees, allowances, and travelling expenses payable to the witness must be paid by that party.
- (5) If the Tribunal has issued the witness summons of its own motion, it may direct that the amount of the fees, allowances, and travelling expenses—
  - (a) form part of the costs of the proceedings; or
  - (b) be paid out of the funds of the Board.

Schedule 2 clause 10(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **11 Privileges and immunities**

- (1) Every person has the same privileges in relation to giving information to the Tribunal, answering questions put by the Tribunal, and the production of papers, documents, records, and things to the Tribunal as witnesses have in courts of law.

- (2) Witnesses and counsel appearing before the Tribunal have the same privileges and immunities as witnesses and counsel have in proceedings in the District Court.

Schedule 2 clause 11(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

## **12 Non-attendance or refusal to co-operate**

- (1) Every person commits an offence who, after being summoned to attend to give evidence before the Tribunal, without reasonable excuse,—
- (a) fails to attend in accordance with the summons; or
  - (b) refuses to be sworn or to give evidence, or, having been sworn, refuses to answer any question that the person is lawfully required by the Tribunal or any member of it to answer concerning the proceedings.
- (2) Every person commits an offence who, after being summoned to produce to the Tribunal any papers, documents, records, or things, without reasonable excuse, fails to produce them.
- (3) Every person commits an offence who—
- (a) wilfully obstructs or hinders the Tribunal or any member of it or any authorised person in any inspection or examination of papers, documents, records, or things pursuant to clause 7(1)(a); or
  - (b) without reasonable excuse, fails to comply with any requirement of the Tribunal or any authorised person made under paragraph (b) or paragraph (c) of clause 7(1); or
  - (c) without reasonable excuse, acts in contravention of, or fails to comply with, any order made by the Tribunal under clause 7(3) or any term or condition of such an order.
- (4) Every person who commits an offence against this clause is liable on conviction to a fine not exceeding \$1,500.
- (5) No person summoned to attend before the Tribunal may be convicted of an offence against subclause (1) unless travelling expenses were tendered or paid to him or her in accordance with clause 10.

Schedule 2 clause 12(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **13 Contempt of Tribunal**

- (1) Every person commits an offence and is liable on conviction to a fine not exceeding \$2,000 who assaults, threatens, or intimidates, or intentionally insults, the Tribunal or any member of it or any special adviser to or officer of the Tribunal, during a sitting of the Tribunal, or in going to, or returning from, any sitting.
- (2) Every person commits an offence and is liable on conviction to a fine not exceeding \$1,000 who—

- (a) intentionally interrupts the proceedings of the Tribunal or otherwise misbehaves while the Tribunal is sitting; or
  - (b) intentionally and without lawful excuse disobeys an order or direction of a member of the Tribunal in the course of any proceedings before the Tribunal.
- (3) A member of the Tribunal may order the exclusion from a sitting of the Tribunal of any person whose behaviour, in the member's opinion, constitutes an offence against this section, whether or not the person is charged with the offence or any other offence; and any constable may take any steps reasonably necessary to enforce the exclusion.

Schedule 2 clause 13(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Schedule 2 clause 13(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Schedule 2 clause 13(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

#### **14 Power to amend charges**

The Tribunal may, at any time during the hearing of any charge laid under section 75, amend the charge in any way.

#### **15 Adjournments**

If the Tribunal is of the opinion that the social worker concerned would be embarrassed in his or her defence by reason of an amendment made or proposed to be made under clause 14, it may, at his or her request, adjourn the hearing.

Schedule 2 clause 15: amended, on 28 February 2019, by section 144(1) of the Social Workers Registration Legislation Act 2019 (2019 No 3).

#### **16 Legal and medical advisers**

- (1) The Tribunal may from time to time appoint a legal adviser, who—
- (a) may be present at any hearing of the Tribunal; and
  - (b) may at any time advise the Tribunal on matters of law, procedure, or evidence.
- (2) The Tribunal may from time to time appoint a medical adviser, who—
- (a) may be present at any hearing of the Tribunal; and
  - (b) may at any time advise the Tribunal on medical matters.
- (3) A legal or medical adviser must not be present during any deliberations of the Tribunal.

**17 Immunity of members of Tribunal**

A member of the Tribunal is not personally liable for any act or omission done in pursuance or intended pursuance of the Tribunal's functions, unless the act or omission was done in bad faith.

### Schedule 3 Consequential amendments

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**Health and Disability Commissioner Act 1994 (1994 No 88)**

*Amendment(s) incorporated in the Act(s).*

**Ombudsmen Act 1975 (1975 No 9)**

*Amendment(s) incorporated in the Act(s).*

**Privacy Act 1993 (1993 No 28)**

*Amendment(s) incorporated in the Act(s).*

**Public Finance Act 1989 (1989 No 44)**

*Amendment(s) incorporated in the Act(s).*

## Reprints notes

### 1 *General*

This is a reprint of the Social Workers Registration Act 2003 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Social Workers Registration Legislation Act 2019 (2019 No 3): Part 1

Burial and Cremation Amendment Act 2016 (2016 No 74): section 11

District Court Act 2016 (2016 No 49): section 261

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Legislation Act 2012 (2012 No 119): section 77(3)

Criminal Procedure Act 2011 (2011 No 81): section 413

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48): section 47

Evidence Act 2006 (2006 No 69): section 216

Insolvency Act 2006 (2006 No 55): section 445

Crown Entities Act 2004 (2004 No 115): section 200

Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)

Social Workers Registration Act Commencement Order 2003 (SR 2003/250)