

**Legislative Council—No 45**

As introduced and read a first time, 5 September 2018

South Australia

**Social Workers Registration Bill 2018**

A BILL FOR

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

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

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

#### 5 2—Commencement

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

#### 3—Interpretation

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

**Board** means the Social Workers Registration Board of South Australia;

10 **condition** includes a limitation;

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

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

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

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

**respondent**—see section 32;

**unprofessional conduct** means—

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

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

(2) For the purposes of this Act—

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

(3) A reference in this Act—

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

## Part 2—Social Workers Registration Board of South Australia

### 4—Establishment of Board

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

(2) The Board—

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

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

### 5—Constitution of Board

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

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

(2) The Minister—

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

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

### 6—Terms and conditions of membership

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

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

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

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

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

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

### 7—Vacancies or defects in appointment of members

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

## 8—Remuneration

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

## 9—Functions of Board

- 5 (1) The Board has the following functions:
- (a) to administer the provisions of this Act for the regulation of the practice of social work;
  - (b) to establish and maintain the register contemplated by this Act;
  - 10 (c) to determine the qualifications and other requirements appropriate for registration under this Act;
  - (d) to receive and determine applications for registration of social workers under this Act;
  - (e) to hear and make determinations in disciplinary proceedings against a person;
  - 15 (f) to carry out other functions assigned to the Board under this Act or by the Minister.
- (2) In performing its functions, the Board may consult with authorities that it thinks appropriate.
- (3) If—
- (a) a code of conduct or professional standard is endorsed by the Board; or
  - 20 (b) guidelines are endorsed by the Board,
- the Board must—
- (c) cause a copy of the code, standard or guidelines to be published on the Board's website, together with a statement of the operative date of the code, standard or guidelines (which may not be a date earlier than the date of publication); and
  - 25 (d) take reasonable steps to send a copy of the code, standard or guidelines to each social worker to whom it applies; and
  - (e) ensure that a copy of the code, standard or guidelines is kept available for public inspection without charge during normal office hours at the principal office of the Registrar,
  - 30

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

## 10—Registrar of Board

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

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

### **11—Procedures of Board**

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

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

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

### **13—Accounts and audit**

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

### **14—Annual report**

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

## **Part 3—Registration**

### **15—Requirement to be registered**

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

## 16—Eligibility for registration

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

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

## 17—Application for registration

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

## 18—Grant of registration

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

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

### 19—Conditions of registration

- 5 (1) The Board may impose conditions of registration which may include (but are not limited to) the following:
- (a) conditions requiring the person to complete a course or acquire experience as a social worker;
  - (b) conditions restricting the services the person may provide;
  - 10 (c) conditions requiring the supervision of the person;
  - (d) conditions limiting the period for which the registration remains in force;
  - (e) conditions requiring the provision of further evidence as to competence.
- (2) Without limiting the effect of subsection (1), the Board must—
- 15 (a) make it a condition of every registration that for the duration of the registration period the person complete a minimum number of hours (as prescribed by regulation or determined by the Board) of further education and training that the Board has approved to be of an appropriate standard or that has been prescribed by regulation; and
  - (b) make it a condition of every registration that—
    - 20 (i) if the person is charged with or convicted of an offence of a kind specified in the condition (which may include offences under the law of South Australia or elsewhere), the person must, within 14 days, give written notice of the charge or conviction to the Board containing the details specified in the condition; and
    - 25 (ii) if the person is dismissed from employment as a social worker in response to allegations of unprofessional conduct, or resigns from employment as a social worker following allegations of unprofessional conduct, the person must, within 14 days, give written notice of the person's dismissal or resignation to the Board containing the details specified in the condition; and
    - 30 (iii) if the person is dismissed from any employment in response to allegations of improper conduct relating to a child, or resigns from employment following allegations of improper conduct relating to a child, the person must, within 14 days, give written notice of the person's dismissal or resignation to the Board containing the details specified in the condition.
- (3) The Board may, at any time, audit a registered social worker to determine the registered social worker's compliance with the condition set out in subsection (2)(a).
- 40 (4) The Board may, on application or by written notice, vary or revoke a condition, or impose a condition, of a person's registration as a social worker.

## 20—Term of registration

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

## 21—Requirement for provision of information

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

Maximum penalty: \$1 250.

Expiation fee: \$160.

## 22—Register

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

and may include other information as the Board thinks fit.

- (3) A registered social worker must, within 28 days after changing their name or nominated contact address, inform the Registrar in writing of the change.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (4) The record of deregistered social workers—
- (a) must not include any person who is deceased; and
  - (b) must include, in relation to each person who has been removed from the register, a statement of—

- (i) the reason for removal of the person; and
- (ii) the date of removal; and
- (iii) if the removal was consequent on suspension—the duration of the suspension; and
- 5 (iv) if the person has been disqualified from being registered on the register—the duration of the disqualification; and
- (c) must have deleted from it all information relating to any person who is reinstated on the register.
- (5) The Registrar is responsible to the Board for the form and maintenance of the register and the record of deregistered social workers.
- 10 (6) The Registrar must correct an entry in the register or the record of deregistered social workers that is not, or has ceased to be, correct.
- (7) The register and the record of deregistered social workers must be kept available for inspection by any person during ordinary office hours at the office of the Registrar and may be made available to the public by electronic means.
- 15 (8) A person may, on payment of the prescribed fee, obtain a copy of any part of the register or the record of deregistered social workers.
- (9) Despite subsection (7) and (8), a nominated contact address is not to be disclosed except to a person who satisfies the Registrar that the person has an adequate reason for wanting the nominated contact address.
- 20 (10) A certificate stating that a person was, or was not, listed on the register or the record of deregistered social workers under this Act at a particular date, or during a particular period, and purporting to be signed by the Registrar will, in the absence of proof to the contrary, be accepted in legal proceedings as proof of the registration or
- 25 deregistration, or of the fact that the person was never so registered, on the date, or during the period, stated in the certificate.

### **23—Certificates of registration**

- (1) The Registrar must, on the registration of a person as a social worker, issue to the person a certificate of registration in a form approved by the Board that includes the following information:
- 30 (a) the person's full name and registration number;
- (b) the conditions (if any) of the registration;
- (c) the expiry date of the registration;
- (d) any other information the Board thinks appropriate.
- 35 (2) A registered social worker must, within 28 days after—
- (a) a condition of the person's registration has been varied or revoked; or
- (b) any other change in the information recorded in the certificate of registration has occurred; or
- (c) the registration has been suspended or cancelled,

return the certificate of registration to the Registrar.

Maximum penalty: \$1 250.

Expiation fee: \$160.

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

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

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

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

## Part 4—Offences

### 24—Holding out as being registered

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

Maximum penalty: \$10 000.

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

Maximum penalty: \$10 000.

### 25—Holding out concerning a registration subject to conditions

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

Maximum penalty: \$10 000.

### 26—Offence to contravene conditions of registration

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

Maximum penalty: \$10 000.

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

Maximum penalty: \$5 000.

Expiation fee: \$315.

### 27—Procurement of registration by fraud

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

Maximum penalty: \$10 000.

## 28—Social worker to produce certificate of registration

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

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) In this section—

*prescribed person* means—

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

## Part 5—Investigations and proceedings

### 29—Cause for disciplinary action

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

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

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

### 30—Employer to report dismissal etc for unprofessional conduct

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

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

Maximum penalty: \$5 000.

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

### 31—Registrar may conduct investigation

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

### 32—Inquiries and disciplinary action

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

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

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

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

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

(a) censure the respondent;

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

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

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

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

(iii) cancel the social worker's registration;

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

(6) The Board may—

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

(i) with immediate effect; or

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

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

(i) permanently; or

(ii) for a specified period; or

(iii) until the fulfilment of specified conditions; or

(iv) until further order.

(7) If—

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

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

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

(8) The Board may—

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

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

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

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

### 33—Notification by Registrar of inquiry and outcome

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

### 34—Variation or revocation of conditions imposed by Board

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

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

### 35—Constitution of Board for purpose of proceedings

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

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

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

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

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

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

(a) deal with—

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

(ii) questions of costs; or

(iii) questions of law; or

(b) enter consent orders,

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

### **36—Principles governing proceedings**

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

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

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

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

### **37—Representation at proceedings before Board**

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

### **38—Powers of Board in relation to witnesses etc**

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

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

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

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

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

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

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

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

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

- (3) A person who—
- (a) fails without reasonable excuse to comply with a summons issued to attend, or to produce documents or records before the Board; or
  - (b) having been served with a summons to produce—
    - (i) a written translation of the document or record into English; and
    - (ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record,fails, without reasonable excuse, to comply with the summons; or
  - (c) misbehaves before the Board, wilfully insults the Board or 1 or more of the members in the exercise of the member's official duties, or wilfully interrupts the proceedings of the Board; or
  - (d) refuses to be sworn or to affirm, or refuses or fails to answer truthfully a relevant question when required to do so by the Board,
- is guilty of an offence.  
Maximum penalty: \$5 000 or imprisonment for 6 months.
- (4) A person who appears as a witness before the Board has the same protection as a witness in proceedings before the Supreme Court.

### **39—Provisions as to proceedings before Board**

- (1) Subject to this Act, the Board must give to all of the parties to proceedings before the Board under this Part at least 14 days written notice of the time and place at which it intends to conduct the proceedings, and must afford to the parties a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses, and to make submissions to the Board.
- (2) However, the Board may, if it thinks special reasons exist for doing so, give a lesser period of written notice under subsection (1).
- (3) The requirement to give written notice under subsection (1) does not extend to adjournments.
- (4) If a party to whom notice has been given under subsection (1) does not attend at the time and place fixed by the notice, the Board may proceed to hear and determine the matter in the absence of that party.
- (5) The Board may, if of the opinion that it is desirable to do so in the public interest—
- (a) suspend the registration of the person the subject of the proceedings; or
  - (b) impose conditions on the person's registration restricting the person's right to provide social work services,
- pending hearing and determination of the proceedings.
- (6) A person who is aggrieved by the conduct of a person that is the subject-matter of proceedings before the Board under this Part is, subject to any direction of the Board to the contrary, entitled to be present at the hearing of the proceedings.

- (7) In the course of proceedings before the Board under this Part, the Board may—
- (a) receive in evidence a transcript of evidence taken in proceedings before a court, tribunal or other body constituted under the law of South Australia or of any other State or a Territory of Australia or of another country, and draw any conclusions of fact from the evidence that it considers proper; and
  - (b) adopt, as in its discretion it considers proper, any findings, decision, judgment, or reasons for judgment, of any such court, tribunal or body that may be relevant to the proceedings.
- (8) The Board must conduct proceedings under this Part as expeditiously as possible (and must, if the Board has taken action under subsection (5), hear and determine the proceedings as a matter of urgency).

#### **40—Costs**

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

### **Part 6—Appeals**

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

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

#### **42—Operation of order may be suspended**

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

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

#### **43—Variation or revocation of conditions imposed by Tribunal**

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

### **Part 7—Miscellaneous**

#### **44—Exemptions**

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

#### **45—Statutory declarations**

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

#### **46—False or misleading statement**

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

Maximum penalty: \$5 000.

#### **47—Self-incrimination**

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

#### 48—Punishment of conduct that constitutes an offence

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

#### 49—Payment of fines

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

#### 50—Ministerial review of decisions relating to courses

(1) If the Board—

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

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

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

#### 51—Confidentiality

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

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

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

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

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

Maximum penalty: \$5 000.

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

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

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

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

Maximum penalty: \$5 000.

## 52—Service of documents

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

## 53—Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or  
15 expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
- (a) prescribe, or empower the Board to fix—
    - (i) fees or charges for the purposes of this Act; and
    - (ii) fees or charges for services provided by the Board in the exercise of  
20 its functions under this Act,and may provide for the recovery of a fee or charge so prescribed; and
  - (b) exempt any person or class of persons from the obligation to pay a fee or charge so prescribed; and
  - (c) regulate, or otherwise make provision with respect to, the education and  
25 training of social workers for the purposes of this Act, including by making provision with respect to the approval of courses that may lead to registration; and
  - (d) make any provision with respect to the keeping of the register under this Act; and
  - (e) make any provision with respect to certificates of registration under this Act; and  
30
  - (f) prescribe penalties, not exceeding \$2 500, for breach of, or non-compliance with, a regulation.
- (3) The regulations may—
- 35 (a) refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed body or person, either as in force at the time the regulations are made or as in force from time to time; and
  - (b) be of general or limited application; and

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