

## **Legislative Council**

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South Australia

# **Social Workers Registration Bill 2021**

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 2021*.

### 2—Commencement

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

### 3—Primary objects

The primary objects of this Act are—

- (a) to establish and maintain a registration system for social workers; and
- (b) to safeguard the public interest by ensuring that only suitably trained and qualified persons are able to practise as social workers; and
- (c) to encourage the maintenance of high professional standards of both competence and conduct by registered social workers; and
- (d) to ensure that registered social workers are held accountable professionally for the conduct of their practice.

### 4—Interpretation

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

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

**condition** includes a limitation;

**fit and proper person**—see section 35;

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

**register** means the register of social workers established and maintained under section 33;

**registered social worker** means a person registered as a social worker under Part 4;

**Registrar** means the Registrar of the Board appointed under section 13, or a person acting in the position of the Registrar;

**respondent**—see section 46;

**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 20;

**unprofessional conduct** means—

- (a) a contravention of or failure to comply with—
  - (i) this Act; or
  - (ii) a condition of registration as a social worker under this Act; or

- (iii) a code of conduct or professional standard prepared or endorsed by the Board under this Act; or
    - (b) incompetence; or
    - (c) disgraceful or improper conduct; or
    - (d) conduct of a kind determined by the Board to be unprofessional conduct;
- working with children check*** means a working with children check under the *Child Safety (Prohibited Persons) Act 2016*.
- (2) For the purposes of this Act—
    - (a) ***social work*** is a practice-based profession and an academic discipline—
      - (i) that promotes social change and development, social cohesion and the empowerment and liberation of people; and
      - (ii) for which principles of social justice, human rights, collective responsibility and respect for diversities are central; and
      - (iii) that is underpinned by theories of social work, social sciences, humanities and indigenous knowledge; and
      - (iv) that engages people and structures to address life challenges and enhance wellbeing; and
    - (b) ***social work services*** has the meaning determined by the Board under section 19.
  - (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.
  - (4) A determination of the Board for the purposes of paragraph (d) of the definition of ***unprofessional conduct*** in subsection (1)—
    - (a) must be published in the Gazette; and
    - (b) may be varied, revoked or substituted.

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

### 5—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.

## 6—Constitution of Board

- (1) The Board consists of 7 members appointed by the Governor, of whom—
- (a) 4 must be persons who have extensive experience in social work; 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.

## 7—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 (however a member cannot hold office for terms that exceed 7 years in total).
- (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 7 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.

### **8—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.

### **9—Remuneration**

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

### **10—Functions of Board**

- (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 provide a definition of *social work services* in accordance with section 19;
  - (c) to establish and maintain the register contemplated by this Act;
  - (d) to prepare or endorse codes of conduct, professional standards and ethical guidelines for registered social workers;
  - (e) to determine the qualifications and other requirements appropriate for registration under this Act;
  - (f) to receive and determine applications for registration of social workers under this Act;
  - (g) to establish processes for handling complaints relating to the practice of social work;
  - (h) to hear and make determinations in disciplinary proceedings against a person;
  - (i) 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 code of conduct, professional standard or set of ethical guidelines is prepared or endorsed by the Board, the Board must—
- (a) 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
  - (b) take reasonable steps to send a copy of the code, standard or set of guidelines to each social worker to whom it applies; and
  - (c) ensure that a copy of the code, standard or set of guidelines is kept available for public inspection without charge during normal office hours at the principal office of the Registrar,
- (although proof of compliance with paragraphs (a), (b) or (c) 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).

## **11—Delegation**

- (1) The Board may delegate a function or power under this Act (other than a prescribed function or power)—
- (a) to a member of the Board; or
  - (b) to a committee established by the Board; or
  - (c) to a specified body or person (including a person for the time being holding or acting in a specified office or position).
- (2) A delegation under this section—
- (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the ability of the Board to act in any matter; and
  - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

## **12—Committees**

- (1) The Board may establish committees—
- (a) to advise the Board; or
  - (b) to carry out functions on behalf of the Board.
- (2) The membership of a committee will be determined by the Board and include at least 1 member of the Board.
- (3) The Board will determine who will be the presiding member of a committee.
- (4) The procedures to be observed in relation to the conduct of the business of a committee will be—
- (a) as determined by the Board; and

- (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

### **13—Registrar of Board**

- (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.

### **14—Other staff of Board**

- (1) There will be such other staff of the Board as the Board thinks necessary for the proper performance of its functions.
- (2) An employee of the Board is not a public service employee.
- (3) The Board may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services of staff of that administrative unit.

### **15—Procedures of Board**

- (1) Subject to this Act, a quorum of the Board consists of half of the members plus 1.
- (2) A meeting of the Board (other than for the purposes of hearing and determining proceedings under Part 7) 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.
- (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 7, the member presiding at the meeting may exercise a casting vote if the votes are equal.
- (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
  - (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



- (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 7 by the Board as constituted for the purposes of proceedings under that Part.
- (9) Subject to this Act, the Board may determine its own procedures.

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

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.

### **17—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.
- (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.

### **18—Annual report**

- (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:
    - (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;
    - (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;
    - (vi) the number of proceedings before the Board under Part 7 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—Social work services, scopes of practice and prescribed qualifications**

### **19—Social work services**

- (1) The Board must, by notice in the Gazette, specify the meaning of the term *social work services* for the purposes of this Act.
- (2) The Board may, at any time, vary, revoke or substitute a notice under subsection (1).
- (3) A notice may not be made, varied or revoked under this section unless there has been consultation with each prescribed body on the proposal to make, vary or revoke the notice.

### **20—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.
- (3) The Board must, when developing scopes of practice for the purposes of this section, have regard to—
  - (a) the *Practice Standards 2013* (or its successor), published by the Australian Association of Social Workers; and
  - (b) any information about the scope of social work practice published by the Australian Association of Social Workers; and
  - (c) the scheme for registration of social workers established by the *Social Workers Registration Act 2003* of New Zealand; and
  - (d) the development of social work scopes of practice by the Social Workers Registration Board of New Zealand.
- (4) Scopes of practice developed for the purposes of this section must be reviewed by the Board regularly to ensure their ongoing relevance to the social work profession.

### **21—Specified qualifications**

- (1) The Board must, by notice in the Gazette, specify the qualifications for each scope of practice that the Board describes under section 20.

- (2) When specifying qualifications, the Board must be guided by the following principles:
  - (a) a qualification (either on its own or together with 1 or more other specified qualifications) must be necessary to protect the public;
  - (b) the number and types of qualifications specified 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) specified for a scope of practice must not impose undue costs on persons seeking to be registered as social workers or the public.

## **22—Provisions relating to this Part**

- (1) The Board may at any time, by notice in the Gazette, vary, revoke or substitute a notice under this Part.
- (2) The variation, revocation or substitution of a notice under section 20 does not affect the registration of a social worker who qualified to practise under the notice before it was varied, revoked or substituted.
- (3) Before the Board publishes a notice under this Part, it must have consulted with 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;
  - (b) persons who the Board considers are able to represent the views of employers of social workers;
  - (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 a website maintained by the Board; 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 copy of the notice on payment of the prescribed fee.

## **23—Parliamentary scrutiny**

- (1) If a notice is made under this Part, the Minister must, within 14 sitting days, cause the notice to be laid before both Houses of Parliament.
- (2) If either House of Parliament passes a resolution disallowing the notice, the notice ceases to have effect.
- (3) A resolution is not effective for the purposes of subsection (2) unless passed pursuant to a notice of motion given within 14 sitting days (which need not fall within the same session of Parliament) after the day on which the notice was laid before the House.
- (4) If a notice that revokes the whole or part of another notice is disallowed, the notice or part sought to be revoked revives.

- (5) If a notice is disallowed by resolution of either House, notice of the resolution must immediately be published in the Gazette.

## **Part 4—Registration**

### **24—Requirement to be registered**

- (1) A person must not, on or after the prescribed day, undertake social work services unless—
- (a) the person is registered as a social worker under this Act; and
  - (b) the services undertaken by the person are within the terms of their individual scope of practice (authorised under section 29).

Maximum penalty: \$5 000.

- (2) A person must not engage another person to undertake social work services unless the other person is registered as a social worker under this Act.

Maximum penalty: \$10 000.

- (3) In this section—

*prescribed day* means—

- (a) the day falling 6 months after the day on which this section comes into operation; or
- (b) if a later day is prescribed by regulation for the purposes of this definition—that day.

### **25—Eligibility for registration**

- (1) Subject to this Act, a person is eligible for registration as a social worker if—
- (a) the person has—
    - (i) qualifications—
      - (A) prescribed by regulation; or
      - (B) determined by the Board to be appropriate for registration;or
    - (ii) sufficient practical experience in practising social work; and
  - (b) a working with children check has been conducted in relation to the person within the preceding 5 years; and
  - (c) the person is a fit and proper person to be registered as a social worker; and
  - (d) the person has met any other requirements for registration—
    - (i) prescribed by regulation; or
    - (ii) determined by the Board to be necessary for registration.
- (2) A qualification may not be prescribed for the purposes of subsection (1) unless it is endorsed or accredited by the Australian Association of Social Workers or another prescribed body.

- (3) A person has sufficient practical experience in practising social work for the purposes of subsection (1) if the person has experience in practising social work that satisfies requirements determined by the Board for the purposes of this subsection.
- (4) A determination of the Board under subsection (3)—
  - (a) must be published in the Gazette and on the Board's website; and
  - (b) must specify—
    - (i) the amount and type of experience in practising social work a person must have; and
    - (ii) the period within which the experience must have been obtained, in order to satisfy the requirements; and
  - (c) may be varied, revoked or substituted by a subsequent determination.

## **26—Non-practising registration**

- (1) A person is eligible to hold non-practising registration as a social worker under this Act if the person—
  - (a) holds or has held general registration as a social worker under this Act; and
  - (b) is a suitable person to hold non-practising registration as a social worker.
- (2) The Board may decide that a person is not a suitable person to hold non-practising registration as a social worker under this Act if, in the Board's opinion, the person is not a fit and proper person to be registered as a social worker or, for any other reason, it is not in the public interest for the person to be registered as a social worker.
- (3) A person who holds non-practising registration as a social worker under this Act must not undertake social work services.
- (4) A contravention of subsection (3) by a person registered as a social worker does not constitute an offence but may constitute unprofessional conduct.

## **27—Application for registration**

- (1) An application for registration as a social worker must—
  - (a) be made to the Board in the manner and form approved by the Board; and
  - (b) be accompanied by the prescribed fee.
- (2) An applicant for registration must—
  - (a) consent to the conduct by the Board of a criminal record check relating to the applicant; and
  - (b) provide evidence of a kind determined by the Board that a working with children check has been conducted in relation to the applicant within the preceding 5 years; and
  - (c) submit to the Board a criminal history report (such as a National Police Certificate) relating to the applicant provided by South Australia Police or the ACC or an ACC accredited agency or broker; and

- (d) 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
  - (e) 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.

## **28—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.

## **29—Scopes of Practice**

- (1) The Board may, when granting registration to an applicant, authorise the applicant to practise within a scope of practice of the social work profession.
- (2) The contents of an authorisation form the applicant's individual scope of practice.
- (3) The Board may authorise a change to the existing individual scope of practice of a person registered as a social worker under this Act on application by the person or on its own initiative.
- (4) An application under subsection (3) must—
  - (a) be made to the Board in the manner and form approved by the Board; and
  - (b) be accompanied by the prescribed fee.
- (5) If the Board proposes to authorise a change to the existing individual scope of practice of a person registered as a social worker under this Act on its own initiative, the person must, in accordance with the regulations, be given an opportunity to make written submissions and be heard on the matter before the authorisation is determined.
- (6) An authorisation under subsection (1) or (2) must identify the applicable scope of practice of the profession and specify the social work services within that scope of practice that the applicant is, subject to any condition included in the authorisation, permitted to perform or not permitted to perform.

- (7) An authorisation under subsection (5) must state the change involved by reference to 1 or more of the following matters:
- (a) the applicable scope of practice of the profession;
  - (b) the social work service or services under that scope of practice that the applicant will now be permitted to perform or not permitted to perform;
  - (c) the cancellation or variation of an existing condition;
  - (d) the inclusion of a new condition.
- (8) The Board may, as it thinks fit, adopt any conditions to apply to the individual scopes of practice of all social workers or all social workers of a particular description.

### **30—Conditions of registration**

- (1) It is a condition of every registration that a working with children check be conducted in relation to the person at least once in each 5 year period.
- (2) 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;
  - (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.
- (3) Without limiting the effect of subsection (2), the Board must—
- (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—
    - (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
    - (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

- (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.
- (4) 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 (3)(a).
- (5) 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.

### 31—Term of registration

- (1) Subject to this Act, registration as a social worker remains in force—
  - (a) until 30 June 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.

### 32—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, within a specified period, 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.

### 33—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) details of the most recent working with children check conducted in relation to the person (if known);
  - (e) the expiry date of the person's registration;



- (f) the person's registration number;
  - (g) 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) A registered social worker must, as soon as is reasonably practicable after a working with children check is conducted in relation to the person (but in any event within 7 days), inform the Registrar in writing of that fact, and provide such details relating to the working with children check as the Registrar may require.
- (5) 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
    - (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.
- (6) The Registrar is responsible to the Board for the form and maintenance of the register and the record of deregistered social workers.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) Despite subsections (8) and (9), 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.
- (11) 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 deregistration, or of the fact that the person was never so registered, on the date, or during the period, stated in the certificate.

### **34—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:
  - (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.
- (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 5—Fit and proper person**

### **35—Fit and proper person**

- (1) The Board may find that a person is not a fit and proper person to be registered 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—
  - (a) 1 or more of the following circumstances occur:
    - (i) the person has not satisfied the Board that they are able to communicate effectively for the purposes of practising as a social worker;
    - (ii) the person has not satisfied the Board that their ability to communicate in and comprehend English is sufficient to protect the health and safety of the public;

- (iii) the person has been convicted, in this or another jurisdiction, 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 on the person's fitness to practise as a social worker;
  - (iv) the Board is satisfied that the person is unable to satisfactorily perform the functions required to practise as a social worker because of a mental or physical condition;
  - (v) the Board is satisfied on reasonable grounds that the person is not of good character or reputation;
  - (vi) professional disciplinary proceedings are being taken against the person in this or another jurisdiction, and the Board considers on reasonable grounds that those proceedings reflect adversely on the person's fitness to practise as a social worker;
  - (vii) the person is subject to an investigation in this or another jurisdiction relating to any matter that may lead to the taking of professional disciplinary proceedings against the person, and the Board considers on reasonable grounds that the investigation reflects adversely on the person's fitness to practise as a social worker;
  - (viii) a finding or an order has been made against the person in professional disciplinary proceedings or an investigation, and the person has not satisfied the Board that the finding or order does not reflect adversely on their fitness to practise as a social worker;
  - (ix) the Board is satisfied on reasonable grounds that the person may endanger the health or safety of a member or members of the public;  
or
- (b) circumstances of a kind referred to in criteria developed by the Board under subsection (3) occur in relation to the person.
- (3) The Board may develop further criteria for the purposes of assessing whether a person is not fit and proper to be registered as a social worker.
  - (4) Criteria developed by the Board under subsection (3) may provide that particular circumstances set out in subsection (2)(a) do not apply for the purposes of this section or apply with specified modifications.

## **Part 6—Offences**

### **36—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.

### **37—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.

### **38—Restriction on use of title**

- (1) A person must not knowingly or recklessly take or use the title "social worker" in a way that could be reasonably expected to induce a belief the person is a registered social worker, unless the person is in fact a registered social worker.

Maximum penalty:

- (a) in the case of a natural person—\$60 000 or 3 years imprisonment or both; or  
(b) in the case of a body corporate—\$120 000.

- (2) A person must not knowingly or recklessly take or use the title "social worker" in relation to another person in a way that could be reasonably expected to induce a belief the second person is a registered social worker, unless the person is in fact a registered social worker.

Maximum penalty:

- (a) in the case of a natural person—\$60 000 or 3 years imprisonment or both; or  
(b) in the case of a body corporate—\$120 000.

- (3) Subsections (1) and (2) apply whether or not the title is taken or used with or without any other words and whether in English or any other language.

### **39—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.

### **40—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.

**41—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 7—Investigations and proceedings****42—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) a working with children check has not been conducted in relation to the social worker within the preceding 5 years; or
  - (d) 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.

**43—Suspension of registration if working with children check not current etc**

- (1) The Board may, if satisfied that a working with children check has not been conducted in relation to a registered social worker within the preceding 5 years suspend (without any requirement for a hearing or other process) the registration of the social worker.
- (2) A suspension under this section has effect—
- (a) until the fulfilment of specified conditions or until further order of the Board; or
  - (b) if the social worker's registration is cancelled under section 46(5)—until that cancellation has effect,

whichever occurs first.

- (3) To avoid doubt, a suspension of a social worker's registration under this section has effect whether or not an appeal has, or is to be, instituted against the decision to suspend the registration of the social worker.

#### **44—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.

#### **45—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—
- (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 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 apart from this section.

#### **46—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—
- (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 person acting on the aggrieved person's behalf; or
  - (e) any other person who satisfies the Board that they have a sufficient interest in the matter.

- (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 complainant and the respondent; and
  - (b) to keep both the complainant and the respondent properly informed 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 complainant and the respondent; and
  - (d) to keep both the complainant and the respondent properly informed 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.

#### **47—Disciplinary Advisory Panel**

- (1) If, after conducting an inquiry under section 46, the Board—
  - (a) considers that there may be proper grounds for disciplinary action against the respondent; but
  - (b) wishes to obtain further advice before making a final decision on the matter,the Board may—
  - (c) establish an independent panel (a *Disciplinary Advisory Panel*) comprised of such members (not exceeding 5) as the Board sees fit; and
  - (d) refer 1 or more questions relating to the matter to the Panel for advice.
- (2) The function of a Disciplinary Advisory Panel is to give an opinion on any question referred to it under this section.
- (3) A Disciplinary Advisory Panel must form its opinion on a question referred under this section within 30 days after the reference is made or such longer period as may be agreed by the Board.
- (4) A Disciplinary Advisory Panel may make such recommendations as it thinks fit in response to a question referred to the Panel under this section, including recommendations as to whether disciplinary action should be taken by the Panel under section 46(5) and, if so, the action that should be taken.
- (5) However, the Board is not bound to follow a recommendation given by a Disciplinary Advisory Panel.



- (6) A Disciplinary Advisory Panel may inform itself as it considers appropriate.
- (7) The regulations may make further provision in relation to the procedures of Disciplinary Advisory Panels and the terms and conditions of appointment of members of Disciplinary Advisory Panels.
- (8) A Disciplinary Advisory Panel will, subject to regulations under subsection (7), determine its own procedures.

#### **48—Notification by Registrar of inquiry and outcome**

- (1) 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 in a position that involves social work.
- (2) If, after conducting an inquiry under this Part, the Board takes disciplinary action of a kind referred to in section 46(5)(c) or (d) against a person registered as a social worker under this Act, the Board may, if it considers that to do so is in the public interest, give notice of the action on its website.

#### **49—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.

#### **50—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.

### **51—Principles governing proceedings**

- (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.
- (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.

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

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.

### **53—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—
- (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—
    - (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
  - (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

- (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.
- (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.

#### **54—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) The complainant, and any other 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).

## **55—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 8—Appeals**

### **56—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 7.
- (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 49—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.

### **57—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.

### **58—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 9—Miscellaneous**

### **59—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.

### **60—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.

### **61—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.

### **62—Protections, privileges and immunities**

- (1) Nothing in this Act affects any rule or principle of law relating to—
  - (a) legal professional privilege; or
  - (b) "without prejudice" privilege; or

- (c) public interest immunity.
- (2) A person is excused from answering a question or producing a document or other material in connection with an inquiry or proceedings under this Act if the person could not be compelled to answer the question or produce the document or material in proceedings in the Supreme Court.
- (3) A person who provides information or a document under this Act to the Board or the Registrar has the same protection, privileges and immunities as a witness in proceedings before the Supreme Court.
- (4) A person who does anything in accordance with this Act, or as required or authorised by or under this Act, cannot by so doing be held to have breached any code of professional etiquette or ethics, or to have departed from any acceptable form of professional conduct.

### **63—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.

### **64—Payment of fines**

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

### **65—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).

### **66—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.

### **67—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
  - (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 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.

### **68—Regulations and fee notices**

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
  - (a) exempt any person or class of persons from the obligation to pay a fee prescribed for the purposes of this Act; and
  - (b) regulate, or otherwise make provision with respect to, the education and 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
  - (c) make any provision with respect to the keeping of the register under this Act; and
  - (d) make any provision with respect to certificates of registration under this Act; and
  - (e) make provisions of a transitional or savings nature; and
  - (f) prescribe penalties, not exceeding \$2 500, for breach of, or non-compliance with, a regulation.

- (3) The regulations may—
- (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
  - (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
  - (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) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.
- (5) A fee notice may—
- (a) include fees for services provided by the Board in the exercise of its functions under this Act; and
  - (b) exempt any person or class of persons from the obligation to pay a prescribed fee.
- (6) If a code, standard or other document is referred to or incorporated in the regulations—
- (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.

## **69—Review**

- (1) The Minister must appoint an independent person to conduct a review of this Act and its administration and operation on the expiry of 3 years from its commencement.
- (2) The review must include an assessment of the extent to which the objectives of this Act are being achieved.
- (3) The review must be completed within 4 months and the results of the review embodied in a written report.
- (4) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after receiving the report.