

House of Representatives
Supplementary Order Paper

Tuesday, 1 April 2003

Social Workers Registration Bill

UNIVERSITY OF OTAGO

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Proposed amendments

Hon Steve Maharey, in Committee, to move the following amendments:

Clause 4

To insert in *paragraph (a)* of the definition of **practising certificate**, after the expression "**section 28(1)**" at line 10 on page 6, the words "or **section 32(3)(b)**".

To insert in *paragraph (b)* of the definition of **practising certificate**, after the word "under" at line 12 on page 6, the words "**section 32(3)(a)** or".

To insert, after the definition of **registration** (after line 26 on page 6), the following definition:

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

Clause 8(5)

To omit the words "**Section 82(4) overrides**" (at line 28 on page 9), and substitute the words "**Sections 82(4) and 137(1) override**".

Clause 10

To omit *subclause (2)* (lines 9 to 12 on page 10), and substitute the following subclauses:

- (2) The duration of any period of provisional registration of a person to whom **section 14(2)** applies (or of any period for which the provisional registration of such a person is renewed) must be such that, when it is added to the duration of any previous period or periods of provisional registration of the person, the total is no more than 8 years.
- (3) The duration of any period of provisional registration of a person to whom **section 14(2)** does not apply (or of any period for which the provisional registration of such a person is renewed)—
 - (a) must be no more than 2 years; and

- (b) must be such that, when it is added to the duration of any previous period or periods of limited registration of the person, the total is no more than 8 years.

Clause 11

To omit *subclause (2)* (lines 20 and 21 on page 10), and substitute the following subclause:

- (2) The duration of any period of temporary registration of a person (or of any period for which a person's temporary registration is renewed)—
- (a) must be no more than 6 months; and
 - (b) must be such that, when it is added to the duration of any previous period or periods of limited registration of the person, the total is no more than 4 years.

Clause 24

To omit *clause 24* (lines 16 to 28 on page 16).

Clause 25

To omit *clause 25* (lines 16 to 28 on page 16), and substitute the following clause:

25 Cancellation of limited registration

The Board may at any time, in its absolute discretion, cancel a registered social worker's limited registration; and in that case the Registrar must make reasonable efforts to give the holder written notice, signed and dated by the Registrar,—

- (a) that the registration has been cancelled; and
- (b) of the reasons for the cancellation; and
- (c) that the holder is required by **section 21(2)(a)** to surrender his or her certificate of registration.

Clause 27(3)

To insert, after *paragraph (a)* (after line 4 on page 18), the following paragraph:

- (ab) he or she has not completed a competence assessment within the previous 5 years; or

Clause 29

To omit from *subclause (1)(a)(i)* the word "undertaken" (at line 27 on page 18), and substitute the word "completed".

To omit from *subclause (1)(a)(ii)* the word "undertaken" (at line 29 on page 18), and substitute the word "completed".

To omit from *subclause (1)(a)(iii)* the word "undertaken" (at line 1 on page 19), and substitute the word "completed".

To insert in *subclause (1)(a)(iv)*, after the word "applicant" at line 4 on page 19, the words "has previously held a practising certificate, but".

To insert, after *subclause (1)* (after line 14 on page 19), the following subclause:

- (1A) The Registrar may refer an application for a practising certificate to the Board if the applicant was first registered within the 3 years immediately before the date of the application.

To add, after line 17 on page 19, the following subclause:

- (3) The Registrar must refuse to issue a practising certificate if the applicant has not completed a competence assessment within the previous 5 years.

Clause 36(4)

To omit the words “The cancellation” (at line 6 on page 23), and substitute the words “A cancellation under **subsection (3)**”.

Clauses 37 and 38

To omit *clauses 37 and 38* (lines 11 to 30 on page 23), and substitute the following clauses:

37 Competence to practise social work

- (1) At any time, the Board must find a person’s competence to practise social work satisfactory for the purposes of this Act if, and only if,—
- (a) either—
- (i) he or she has completed a competence assessment expressly required by the Board for the purpose of determining whether his or her competence to practise social work is satisfactory for the purposes of this Act; or
- (ii) if the Board does not expressly require him or her to complete a competence assessment for the purpose of determining whether his or her competence to practise social work is satisfactory for the purposes of this Act, he or she has completed a competence assessment within the previous 5 years; and
- (b) in the Board’s opinion, reached in the light of the outcome of the assessment, he or she—
- (i) has the skill and knowledge required to practise social work in accordance with his or her registration (or proposed registration); and
- (ii) meets the professional standards reasonably to be expected of a registered social worker.
- (2) The Board may direct the Registrar to arrange for the applicants for registration to complete competence assessments for the purposes of **subsection (1)(a)**.
- (3) **Subsection (1)** does not prevent the Board, when reviewing under **section 38** a person’s competence to practise social work, from concluding, without the person’s having completed a competence assessment, that it has no reason to believe that his or her competence may be unsatisfactory.

38 Reviews of competence to practise social work

- (1) The Board may at any time review a registered social worker's competence to practise social work.
- (2) Promptly after being notified of a determination under **section 69(1)(a)** that the Board should review a registered social worker's competence to practise social work, the Board must review his or her competence to practise social work.

Clause 39

To omit from *subclause (1)* the word "person's" (at line 32 on page 23), and substitute the words "registered social worker's".

To omit from *subclause (1)(a)* the word "person" (at line 34 on page 23), and substitute the words "social worker".

To insert in *subclause (1)(a)*, before *subparagraph (i)* (before line 35 on page 23), the following subparagraph:

- (ia) stating why his or her competence to practise social work is being reviewed; and

To omit *subclause (2)* (lines 8 to 10 on page 24).

To omit from *subclause (3)* the word "person" (at line 12 on page 24), and substitute the words "social worker".

To omit from *subclause (4)* the word "person" (at line 14 on page 24), and substitute the words "social worker".

To omit from *subclause (4A)* the word "person" (at line 17 on page 24), and substitute the words "social worker".

Clause 40

To omit from the heading the words "if outcome of review of competence not satisfactory" (at lines 25 and 26 on page 24), and substitute the words "after review of competence".

To omit *subclause (1)* (lines 27 to 30 on page 24), and substitute the following subclause:

- (1) If, after reviewing a registered social worker's competence to practise social work, the Board is satisfied that he or she should complete a competence assessment, it may direct the Registrar to arrange for the social worker to complete a competence assessment.

To omit from *subclause (2)* the words "If the person is a registered social worker, the" (at line 31 on page 24), and substitute the word "The".

To omit from *subclause (3)(a)* the words "person to undertake" (at lines 35 and 36 on page 24), and substitute the words "social worker to complete".

To omit from *subclause (3)(b)* the words "person has undertaken" (at line 1 on page 25), and substitute the words "social worker has completed".

To omit from *subclause (4)* the word "person" (at line 4 on page 25), and substitute the words "social worker".

To omit from *subclause (5)* the word "person" (at line 7 on page 25), and substitute the words "social worker".

Clause 41(1)

To omit the words “applicants for practising certificates or registration” (at lines 11 and 12 on page 25), and substitute the word “people”.

New clause 42A

To insert, after *clause 42* (after line 6 on page 26), the following clause:

42A Registered social workers to complete assessments every 5 years

- (1) A registered social worker who wishes to retain his or her practising certificate must complete a competence assessment at a time during the period between—
 - (a) the day 4 years and 9 months after the social worker last completed a competence assessment; and
 - (b) the day 5 years and 3 months after the social worker last completed a competence assessment.
- (2) The Registrar must arrange competence assessments, at times and places (determined by the Registrar) that are reasonable in all the circumstances, to enable registered social workers who hold practising certificates to comply with **subsection (1)**.
- (3) The Registrar must take all reasonably practicable steps to inform every registered social worker who holds a practising certificate and has not completed a competence assessment within the previous 4 years and 6 months of—
 - (a) the requirements of **subsection (1)**; and
 - (b) the times and places determined.
- (4) If a social worker satisfies the Registrar that the times and places determined are not suitable for the social worker, the Registrar must take all reasonably practicable steps to arrange a competence assessment at a time and place that is suitable for the social worker.

Clause 43

To omit from *subclause (1)* the word “undertake” (at line 9 on page 26), and substitute the word “complete”.

To insert in *subclause (2)*, before *paragraph (a)* (before line 19 on page 26), the following paragraph:

- (aa) a copy of the proposed direction; and

Clause 62(1)

To insert, after the word “Commissioner” at line 12 on page 37, the words “under this Act”.

Clause 63

To omit from the heading the word “convictions” (at line 30 on page 37), and substitute the word “conviction”.

To omit from *subclause (1)* the word “receiving” (at line 32 on page 37), and substitute the words “being notified of”.

Clause 69

To omit from *subclause (1)(a)* the words “social worker to practise as a social worker” (at line 21 on page 40), and substitute the words “registered social worker concerned to practise social work”.

To insert in *subclause (2)(b)(i)*, after the word “body,” at line 6 on page 41, the word “court,”.

To omit from *subclause (3)(a)(i)* the word “concerned” (at line 12 on page 41).

To omit from *subclause (6)* the word “Board” (at line 1 on page 42), and substitute the word “committee”.

To add (after line 6 on page 42) the following subclause:

- (7) If the committee makes a determination that no further steps should be taken under this Act in relation to a complaint or conviction,—
 - (a) no further steps may be taken under this Act in relation to the complaint or conviction; and
 - (b) the committee must give the social worker (and, in the case of a complaint, the complainant) written notice of—
 - (i) the determination; and
 - (ii) the committee’s reasons.

Clause 70

To insert in *subclause (1)(a)*, before the word “social” at line 11 on page 42, the word “registered”.

To omit from *subclause (2)(b)* the word “concerned” (at line 18 on page 42).

To omit *subclause (3)* (lines 20 to 26 on page 42), and substitute the following subclause:

- (3) If it makes a determination to submit a complaint or conviction to the Tribunal, a complaints assessment committee must—
 - (a) frame an appropriate charge; and
 - (b) lay it before the Tribunal; and
 - (c) give written notice of it to the social worker and, in the case of a complaint, to the complainant.

Clause 71

To insert in *subclause (1)*, before the word “social” at line 33 on page 42, the word “registered”.

To omit from *subclause (3)(a)* the words “or conviction” (at lines 7 and 8 on page 43).

Clause 75(1)

To insert, before the word “social” at line 29 on page 45, the word “registered”.

Clause 76(1)

To insert, before the word “social” at line 16 on page 46, the word “registered”.

Clause 77(2)

To omit the words “any of the parties” (at line 1 on page 47), and substitute the words “the person or body prosecuting the charge, the social worker concerned, a complainant, or a witness,”.

Clause 86(3)

To omit *paragraph (a)* (lines 23 and 24 on page 53), and substitute the following paragraphs:

- (a) a decision includes a decision to refuse to make an order; and
- (aa) an order includes a direction under **section 75**; and

Clause 97(1)(a)

To insert, after the word “receive” at line 30 on page 56, the words “and consider”.

Clause 104

To omit *subclause (2)* (lines 24 to 27 on page 61), and substitute the following subclause:

- (2) Before the transition day, the references in **subsection (1)(a)** and **clause 36 of Schedule 1** to registered social workers must be read as references to people engaged or employed as a social worker.

Clause 119

To omit the word “maintain” (at line 35 on page 66), and substitute the word “keep”.

Clause 120

To omit the word “maintain” (at line 2 on page 67), and substitute the word “keep”.

To omit from *paragraph (a)* the words “a limited certificate” (at lines 3 and 4 on page 67), and substitute the words “limited registration”.

To omit from *paragraph (b)* the words “a provisional certificate of” (at lines 5 and 6 on page 67), and substitute the word “provisional”.

To omit from *paragraph (c)* the words “a temporary certificate of” (at lines 7 and 8 on page 67), and substitute the words “temporary”.

Clause 121

To omit from *subclause (1)(c)* the word “the” where it first occurs (at line 14 on page 67), and substitute the word “any”.

To insert, after *subclause (3)(a)* (after line 28 on page 67), the following paragraph:

- (aa) any current restrictions subject to which the person is registered:

To insert, after *subclause (3)(b)* (after line 31 on page 67), the following paragraph:

- (ba) any current restrictions imposed under **section 75(1)(b)** or **section 81(1)(a)(ii)** on the person’s ability to practise as a social worker:

To omit *subclause (3)(d)* (lines 34 and 35 on page 67), and substitute the following paragraph:

- (d) any particular conditions to which the person's current practising certificate is subject:

Clause 125

To omit from *subclause (1)* the words "direct the Registrar to cancel the entry in the Register relating to the social worker" (at lines 35 and 36 on page 68), and substitute the words "cancel the social worker's registration".

To omit from *subclause (2)* the words "direct the Registrar to cancel the entry in the Register relating to a registered social worker" (at lines 1 and 2 on page 69), and substitute the words "cancel a social worker's registration under **subsection (1)**".

To add (after line 4 on page 69) the following subclause:

- (3) The Registrar must make reasonable efforts to give a copy of the direction to the social worker.

Clause 126

To insert, after *subclause (3)* (after line 17 on page 69), the following subclause:

- (3A) The Registrar must make reasonable efforts to give a copy of the direction to the social worker's personal representative.

Clause 127

To omit from *subclause (3)* the words "the entry in the Register relating to him or her cancelled, the Board must direct the Registrar to cancel the entry in the Register relating to the social worker" (at lines 32 to 34 on page 69), and substitute the words "his or her registration cancelled, the Board must cancel the social worker's registration".

To omit from *subclause (4)* the words "direct the Registrar to cancel the entry in the Register relating to the social worker" (at lines 3 and 4 on page 70), and substitute the words "cancel the social worker's registration".

To add (after line 4 on page 70) the following subclause:

- (5) The Registrar must make reasonable efforts to give a copy of a direction under **subsection (3) or subsection (4)** to the social worker concerned.

Clause 129

To insert after *subclause (2C)* (after line 25 on page 71) the following subclause:

- (2D) The Registrar must make reasonable efforts to give a copy of a direction under **subsection (1)** to the social worker concerned.

Clause 130

To insert after *subclause (1)* (after line 8 on page 72) the following subclause:

- (1A) The Registrar must make reasonable efforts to give to the social worker concerned a copy of a direction under **subsection (1)**.

Clause 131(5)

To omit the word “order” (at line 24 on page 73), and substitute the word “direction”.

New clause 132

To omit *clause 132* (lines 25 to 32 on page 73), and substitute the following clause:

132 Cancellation or suspension not to affect existing liabilities

The cancellation or suspension of a registered social worker’s registration does not affect his or her liability for any act or default occurring before the cancellation or suspension.

Clause 136(1)(a)

To insert in *subparagraph (v)*, after the word “conditions” at line 10 on page 75, the words “or restrictions”.

To insert in *subparagraph (vi)*, after the word “conditions” at line 12 on page 75, the words “or restrictions”.

New clause 137

To omit *clause 137* (lines 25 to 40 on page 75 and lines 1 to 3 on page 76), and substitute the following clause.

137 Registrar may refuse to act if fine or costs outstanding, or fee not paid

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

Clause 138

To omit from the heading the words “**certificate of registration**” (at line 5 on page 76), and substitute the words “**practising certificate**”.

To insert, after the word “employs” at line 7 on page 76, the words “or engages”.

To omit the words “certificate of registration” (at lines 9 and 10 on page 76), and substitute the words “practising certificate”.

Clause 144(1)(a)

To omit the words “it has made” (at line 22 on page 78), and substitute the words “or direction it has made or given”.

Schedule 1

To omit *clause 3(a)* (line 1 on page 83).

To omit from the heading before *clause 9* the words “*Resignation and removal of*” (at line 24 on page 84), and substitute the words “*Vacation of office by*”.

To insert, after *clause 9* (after line 31 on page 84), the following clause:

9A Vacation of office if status changes

- (1) A member who was a registered social worker when last appointed vacates office if—
 - (a) he or she ceases to be a registered social worker; or
 - (b) his or her registration is suspended.
- (2) A member last appointed on or after the transition day who was not then a registered social worker vacates office if he or she becomes a registered social worker.
- (3) A member appointed before the transition day who was then engaged or employed as a social worker vacates office on that day if he or she is not then a registered social worker.
- (4) A member appointed before the transition day who was not then engaged or employed as a social worker vacates office if he or she becomes a registered social worker.

Schedule 3

To omit from proposed *new section 4(1)(la)* of the Health and Disability Commissioner Act 1994 the words “**paragraph (a)** of the definition of that term in **section 4 of**” (lines 8 and 9 on page 109).

Explanatory note

The amendment to *clause 10* has the effect that—

- the maximum total period for which a person may hold provisional registration as a social worker is extended from 6 years to 8 years; and
- the maximum period for which a person to whom *clause 14(2)* does not apply may be given provisional registration as a social worker, or have his or her provisional registration renewed is fixed at 2 years.

(*Clause 14(2)* applies to a person who applied for registration within 3 months after the commencement of *clause 14*, and on that commencement was practising social work in New Zealand.)

The amendment to *clause 11* has the effect that—

- the maximum total period for which a person may hold temporary registration as a social worker is extended from 6 months to 4 years; but
- the maximum period for which a person may be given temporary registration as a social worker, or have his or her temporary registration renewed is fixed at 6 months.

Clause 24 is omitted, because the amendments to *clauses 10 and 11* render it unnecessary.

New clause 25 omits an administrative requirement dealt with more generally in *clause 136*.

The amendment to *clause 27* prevents the issue of a practising certificate to an applicant who has not completed a competence assessment within the last 5 years. A number of other clauses amended accordingly.

Clause 29, which relates to the issue of practising certificates, is amended to—

- give the Registrar a discretion as to whether to refer to the Board an application for a practising certificate made by a social worker registered within the last 3 years; and
- require the Registrar (in the light of the amendment to *clause 27*) to refuse to issue a practising certificate to a social worker who has not completed a competence assessment within the last 5 years.

New clause 37 allows the Board to require people to complete a competence assessment for the purpose of determining their competence to practise social work.

The amendment to *clause 40* makes clear that the Board has a discretion, after a registered social worker's competence has been reviewed, to require him or her complete a formal competence assessment.

New clause 42A requires registered social workers to complete competence assessments every 5 years in order to retain their practising certificates.

The amendment to *clause 86* gives a right of appeal against a direction of the Tribunal under *clause 75*.

Clauses 119, 120, 121, 125, 127, 129, and 130, which relate to the register of social workers, are amended to clarify the information recorded on the register. Some of these clauses are also amended to require the Registrar to take reasonable efforts to give copies of the Board's directions to the social workers affected.

The amendment to *clause 137* extends the Registrar's powers to refuse to take certain actions if a person has not paid a fine or costs ordered by the Tribunal.

The amendment to *clause 3 of Schedule 1* omits a paragraph (requiring members of the Social Workers Registration Board to be at least 18 years old) that may contravene the Human Rights Act 1993.

The *new clause 9A of Schedule 1* provides that a member of the Board who becomes or ceases to be a registered social worker must vacate office, and is intended to preserve the proportion of 6 registered social workers to 4 other people on the Board set out in *clause 104* of the Bill.

The other amendments effect minor drafting corrections or improvements.
