

NO. 106 OF 1996: WELFARE LAWS AMENDMENT ACT, 1996.

PRESIDENT'S OFFICE

No. 1904.  
27 November 1996

NO. 106 OF 1996: WELFARE LAWS AMENDMENT ACT, 1996.

It is hereby notified that the President has assented to the following Act which is hereby published for general information:-

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Social Work Act, 1978, so as to make the South African Interim Council for Social Work more representative by enlarging its membership; to amend the Probation Services Act, 1991, so as to further provide for the delegation of powers and the authorisation to perform duties; to amend the Prevention and Treatment of Drug Dependency Act, 1992, so as to amend a certain definition; to provide for the establishment of programmes regarding the prevention and treatment of drug dependency which are aimed at persons in treatment centres; and to further provide for the delegation of powers and the authorization to perform duties; to amend the Social Assistance Act, 1992, so as to amend a certain definition in order to authorize financial awards to unregistered, non-profitable organizations rendering developmental social welfare services; and to broaden the activities in respect of which financial awards may be made to any activity in the field of developmental social welfare services; and to extend the application of certain laws relating to welfare services to the whole of the national territory of the Republic; and to provide for matters connected therewith.

(English text signed by the President.)

(Assented to 12 November 1996.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 5 of Act 110 of 1978, as substituted by section 6 of Act 52 of 1995

1. (1) Section 5 of the Social Work Act, 1978, is hereby amended-

(a) by the deletion of the word "and" at the end of paragraph (c) of subsection(1);

(b) by the addition to subsection (1) of the following paragraph:

"(e) from a date determined by the Minister by notice in the Gazette-

(i) a social auxiliary worker;

(ii) a student social worker registered for his or her second year of study;

- (iii) a social worker engaged in full-time or part-time private practice;
  - (iv) a member of a nongovernmental organization or an organization based in a community-
    - (aa) which renders developmental social welfare services;
    - (bb) which is not registered as a welfare organization in terms of the National Welfare Act, 1978 (Act No. 100 of 1978); and
    - (cc) which is not receiving any financial grant or loan from the State;
  - (v) a representative from organizations which represent persons who use social welfare services;
  - (vi) a person engaged in developmental social welfare services in the territory of any former entity known as Transkei, Bophuthatswana, Venda or Ciskei, whether or not he or she is a social worker; and
  - (vii) a representative from trade unions which represent employees engaged in developmental social welfare services, elected in the prescribed manner by the electoral college referred to in subsection (1A) from nominations, in the case of subparagraphs (i) to (iii), by the electorate, and, in the case of subparagraphs (iv) to (vii), by the general public.";
- (c) by the insertion after subsection (1) of the following subsection:
- "(1A) (a) There is hereby established a body to be known as the electoral college and the meetings of the electoral college shall be convened by the registrar.
- (b) The electoral college shall consist of the following members, namely-
- (i) the Director-General or his or her representative;
  - (ii) the person from the provinces who obtained the most votes in the election which took place for the members of the council referred to in subsection (1) (a);
  - (iii) a representative from the Joint Universities Committee for Social Work;
  - (iv) a representative from the South African Black Social Workers Association;
  - (v) a representative from the Social Workers Association of South Africa;
  - (vi) a representative from the National Welfare Social Services and Development Forum;
  - (vii) a representative from the South African Association of Social Workers in Private Practice; and
  - (viii) a representative from trade unions which represent employees engaged in developmental social welfare services, appointed at a meeting convened for this purpose by the registrar.";
- (d) by the substitution for subsection (3) of the following subsection:

by "(3) The names of the members and alternate members of the council and the date of commencement of their period of office shall be published the registrar in the Gazette as soon as possible after the constitution of the council election of all the members required to constitute the council."; and

(e) by the substitution for the proviso to subsection (4) of the following proviso:

"Provided that-

- (a) they the members referred to in subsection (1)(a), (b), (c) and (d) shall not hold office for a period exceeding three years;
- (b) the members referred to in subsection (1)(e) shall not hold office for a period exceeding the period for which the members referred to in subsection (1)(a), (b), (c) and (d) hold office."

(2) Subsection (1)(b) shall not be construed as constituting a new council terminating the period of office of members as contemplated in section 5(4) of the Social Work Act, 1978.

Substitution of section 18 of Act 116 of 1991

2. The following section is hereby substituted for section 18 of the Probation Services Act, 1991:

"Delegation

18. (1) The Minister may-

- (a) delegate to any officer of the department any power conferred upon the Minister by this Act, except the power under section 16 to make regulations;
- (b) authorize any such officer to perform any duty imposed upon the Minister by this Act.

(2) The Minister may, with the concurrence of the Premier of a province-

- upon
- (a) delegate to the member of the Executive Council of that province responsible for welfare matters in the province any power conferred the Minister by this Act, except the power under section 16 to make regulations;
  - (b) authorize that member of the Executive Council to perform any duty imposed upon the Minister by this Act.

(3) The member of the Executive Council of a province responsible for welfare matters in the province may-

- (a) delegate to any officer of the provincial administration concerned any power delegated to that member under subsection (2);
- (b) authorize any such officer to perform any duty which that member is authorized to perform under subsection (2).

(4) The Director-General may-

- (a) delegate to any other officer of the department any power conferred

upon the Director-General by this Act;

- (b) authorize any such officer to perform any duty imposed upon the Director-General by this Act.

(5) The Director-General may, with the concurrence of the Director-General of a provincial administration (in this section referred to as the "provincial Director-General")-

- (a) delegate to that provincial Director-General any power conferred upon the Director-General by this Act;
- (b) authorize that provincial Director-General to perform any duty imposed upon the Director-General by this Act.

(6) A provincial Director-General may-

- (a) delegate to any other officer of the provincial administration concerned any power delegated to him or her under subsection (5);
- (b) authorize any such officer to perform any duty which he or she is authorized to perform under subsection (5).

(7) Any person to whom any power has been delegated or who has been authorized to perform a duty under this section, shall exercise that power or perform that duty subject to such conditions as the person who effected the delegation or granted the authorization considers necessary.

(8) Any delegation of a power or authorization to perform a duty under this section-

- (a) shall be done in writing;
- (b) shall not prevent the person who effected the delegation or granted the authorization from exercising that power or performing that duty himself or herself;
- (c) may at any time be withdrawn in writing by that person."

Amendment of section 1 of Act 20 of 1992

3. Section 1 of the Prevention and Treatment of Drug Dependency Act, 1992, is hereby amended-

- (a) by the deletion of the words "or 'other senior officer' " which form part of the defined expression of " 'Director-General' or 'other senior officer' "; and
- (b) by the deletion of the words "or any other senior officer", where they occur, in the definition of "Director-General".

Amendment of section 6 of Act 20 of 1992

4. Section 6 of the Prevention and Treatment of Drug Dependency Act, 1992, is hereby amended by the substitution for paragraph (d) of the following paragraph:

"(d) the observation, treatment and supervision of persons who-

- (i) are in a treatment centre or a registered treatment centre;
- (ii) have been released from a treatment centre or registered treatment centre or who have been placed under supervision by a court;"

Substitution of section 47 of Act 20 of 1992

5. The following section is hereby substituted for section 47 of the Prevention and Treatment of Drug Dependency Act, 1992:

"Delegation

47. (1) The Minister may-

- make
- (a) delegate to any officer of his or her department any power conferred upon the Minister by this Act, except the power under section 48 to make regulations;
  - (b) authorize any such officer to perform any duty imposed upon the Minister by this Act.

(2) The Minister may, with the concurrence of the Premier of a province-

- upon
- (a) delegate to the member of the Executive Council of that province responsible for welfare matters in the province any power conferred upon the Minister by this Act, except the power under section 48 to make regulations;
  - (b) authorize that member of the Executive Council to perform any duty imposed upon the Minister by this Act.

(3) The member of the Executive Council of a province responsible for welfare matters in the province may-

- (a) delegate to any officer of the provincial administration concerned any power delegated to that member under subsection (2);
- (b) authorize any such officer to perform any duty which that member is authorized to perform under subsection (2).

(4) The Director-General may-

- (a) delegate to any other officer of his or her department any power conferred upon the Director-General by this Act;
- (b) authorize any such officer to perform any duty imposed upon the Director-General by this Act.

(5) The Director-General may, with the concurrence of the Director-General of a provincial administration (in this section referred to as the "provincial Director-General")-

- (a) delegate to that provincial Director-General any power conferred upon the Director-General by this Act;
- (b) authorize that provincial Director-General to perform any duty imposed upon the Director-General by this Act.

(6) A provincial Director-General may-

- (a) delegate to any other officer of the provincial administration concerned any power delegated to him or her under subsection (5);
- (b) authorize any such officer to perform any duty which he or she is authorized to perform under subsection (5).

(7) Any person to whom any power has been delegated or who has been authorized to perform a duty under this section shall exercise that power or perform that duty subject to such conditions as the person who effected the delegation or granted the authorization considers necessary.

(8) Any delegation of a power or authorization to perform a duty under this section-

(a) shall be done in writing;

(b) shall not prevent the person who effected the delegation or granted the authorization from exercising that power or performing that duty himself or herself;

(c) may at any time be withdrawn in writing by that person."

Amendment of section 1 of Act 59 of 1992, as amended by section 14 of Act 118 of 1993, section 1 of Act 45 of 1994 and paragraph 3 of Part 1 of Schedule to Proclamation R. 7 of 1996

6. Section 1 of the Social Assistance Act, 1992, is hereby amended by the substitution for the definition of "welfare organization" of the following definition:

" 'welfare organization' means-

(a) a welfare organization registered under section 13(1) of the National Welfare Act, 1978 (Act No. 100 of 1978);

(b) an organization not so registered and which renders social welfare services for non-profitable purposes."

Amendment of section 5 of Act 59 of 1992

7. Section 5 of the Social Assistance Act, 1992, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) any welfare organization which undertakes or takes or co-ordinates organized activities, measures or programmes in the field of developmental social welfare services;"

Extension of application of certain laws

8. The laws referred to in Schedule I which apply in that part of the Republic which constituted the territory of the Republic immediately before 27 April 1994, shall apply also in those parts of the Republic which constituted the territories of the former entities known as Transkei, Bophuthatswana, Venda, Ciskei, Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa and Qwaqwa.

Repeal of laws, and savings

9. (1) Subject to this section-

(a) the laws referred to in the second column of Schedule 2 in force in those parts of the Republic which constituted the territories of the former entities known as indicated in the third column of Schedule 2, are hereby repealed to the extent indicated in the fourth column of Schedule 2; and

(b) any other law in force in that part of the Republic which constituted the territory of any former entity known as Transkei, Bophuthatswana, Venda, Ciskei, Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa or Qwaqwa is hereby repealed to the extent that such other law is

inconsistent with, or deals with any matter dealt with by, any law referred to in Schedule 1.

(2) Any fund, board, council, commission, committee or other body established by or in terms of a law repealed by subsection (1), is hereby abolished.

(3) All moneys which-

(a) immediately before the commencement of this Act stood to the credit of a fund abolished by subsection (2) (in this section referred to as a "former fund") shall devolve upon such fund established by section 16 of

the Fund-raising Act, 1978 (Act No. 107 of 1978), as the Minister for Welfare and Population Development, with the concurrence of the Minister

of Finance, may determine (in this section referred to as the "designated fund");

(b) immediately before the commencement of this Act were payable to or for the credit of a former fund, shall be payable to the designated fund;

(c) on or after the commencement of this Act would have become payable to or for the credit of a former fund, were it not for the abolition of such former fund by subsection (2), shall become payable to the designated fund;

and

(d) were advanced out of a former fund shall be deemed to have been advanced out of the designated fund.

(4) Any reference in any law to a former fund shall be construed as a reference to the designated fund.

(5) Anything done in terms of a provision of a law repealed by subsection (1) which can be done in terms of a corresponding provision of a law in force, shall, subject to subsection (6), be deemed to have been done in terms of such corresponding provision.

(6) Any licence, certificate, permit or authorisation deemed to have been issued or granted in terms of a corresponding provision of a law by virtue of subsection (5), shall remain in force for the period for which it was issued or granted or for a period not exceeding six months as from the commencement of this Act, whichever period is the shorter.

Short title

10. This Act shall be called the Welfare Laws Amendment Act, 1996.

#### SCHEDULE 1

#### LAWS APPLYING TO WHOLE OF NATIONAL TERRITORY

(Section 8)

1. Fund-raising Act, 1978 (Act No. 107 of 1978)

2. Probation Services Act, 1991 (Act No. 116 of 1991)

3. Prevention and Treatment of Drug Dependency Act, 1992 (Act No. 20 of 1992)

## 4. Any provision of-

- (a) any Act of Parliament which amends any law referred to in this Schedule; and
- (b) any regulation, notice or similar subordinate legislative or administrative measure made, issued or taken in terms of any law referred to in this Schedule, and which has at the commencement of this Act not yet come into operation.

## SCHEDULE 2

## LAWS REPEALED

(Section 9(1))

Number and year of law applicable	Short title	Part in which	Extent of repeal
Act No. 6 of 1986	KwaZulu Social and Associated Workers Act, 1986	KwaZulu	The whole
Act No. 18 of 1987	National Welfare Act, 1987 fund-raising	Ciskei	In so far as it relates to
Decree No. 47 of 1990	Fund-raising Decree, 1990	Ciskei	The whole
Act No. 8 of 1992	KwaZulu Probation Services Act, 1992	KwaZulu	The whole
Decree No. 1 of 1993	Fund-raising Decree, 1993	Ciskei	The whole